

QUAID-I-AZAM UNIVERSITY

**THE CULTURE OF POWER AND GOVERNANCE
IN PAKISTAN**

**A DISSERTATION SUBMITTED TO
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IN CANDIDACY FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY**

DEPARTMENT OF HISTORY



BY

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I hereby declare that the dissertation presently submitted bearing the title "The Culture of Power and Governance in Pakistan" is the result of my own research and has not been submitted to any other institution for any other degree.



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To days long gone.

QUAID-I-AZAM UNIVERSITY

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ABSTRACT OF PHD DISSERTATION **"THE CULTURE OF POWER AND GOVERNANCE IN PAKISTAN"**

"The Culture of Power and Governance in Pakistan" is a conceptually integrated historical exposition of the performance of the state apparatus in Pakistan. It covers the major components of the state apparatus inclusive of the civil service/higher executive bureaucracy, the military, the judiciary and police, and the financial administration. It also addresses the initial difficulties faced by Pakistan and the impact of the decisions made in its first decade of independence on subsequent developments. Corruption is also dealt with as a separate and ubiquitous feature of governance in Pakistan. A historical background along with an introduction, conclusion and bibliography/references section are also provided.

The dissertation draws extensively upon the declassified official record and official reports from 1947 onwards and tries to delineate the culture of power of the state and society in Pakistan. It is, therefore, a reflective narrative that seeks to explain the reasons for the deficiencies manifest in the performance of the state apparatus in Pakistan.

In a substantial departure from much of the existing discourse on governance, the dissertation does not lay the blame for Pakistan's ills on the British imperial legacy. Rather, it sees the subcontinent's history as an essentially imperializing continuum and argues that since independence from British rule the mentality of the rulers and their attitudes towards the state have steadily reverted to the pre-British norms of exercising

power. This has meant that the culture of power of Pakistan has become increasingly arbitrary, proprietarily-oriented and disconnected from reality with ominous consequences for the quality of governance.

NOTE ON THE REFERENCES

The rich and varied declassified record at the National Documentation Centre in Islamabad merited a customized approach towards the references given to the files in this dissertation. The critical point is that the National Documentation Centre records are organized in two distinct ways. On the one hand the prime minister's correspondence is organized into folders subdivided into files comprising letters, notes, reports, summaries, decisions, etc. On the other hand there are separate files relating to everything else that can be accessed directly. In the case of the files that are in the folders, the pages are numbered sequentially as they would be in a book. In the case of files that exist autonomously, each individual subtopic has its own numbering and sequence.

For the footnotes, therefore, when citing files in folders I have given the folder number first and referred to the page number assigned by the folder. When citing files that exist autonomously I have referred to the file number and given the subtopic and page number within that particular subtopic. For the Bibliography and Sources, however, I have referred to each file number starting from the earliest file to the most recent. The reason for this is that whereas the folders are organized by subject and contain diverse files, many of the autonomous files would fit in between those lumped together in the folder. I have found this pattern to be logically consistent and adaptable enough to be applied to research material used. In all other sources the sixth edition of Kate L. Turabian's *A Manual for Writers of Term Papers, Theses, and Dissertations* is followed to the greatest extent feasible.

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Knowledge and understanding are acquired through one's own exertions and the interactions we have with others. The closest interaction that one normally has in the course of researching and writing for a Ph.D. is with one's supervisor. I was fortunate to have begun this dissertation under the guidance of Dr. Sikandar Hayat. Regrettably, his retirement from the Quaid-i-Azam University, Department of History, in September 2006, eventually precipitated a change of supervisor. Dr. Tariq Rahman at the National Institute of Pakistan Studies was very generous in taking up where Dr. Sikandar Hayat left off and helped me with the first revised draft of the dissertation. After the first revised draft was ready I had the opportunity of working under Dr. M. Naeem Qureshi's supervision at the Department of History. Dr. Tariq Rahman very graciously allowed me to take this opportunity and thus I completed the second, third, and fourth, revised drafts of the dissertation under Dr. Naeem Qureshi's supervision. Although this instability was best avoided I feel that the dissertation has benefited from the feedback and guidance given by three of Pakistan's most outstanding social scientists. I am, of course, particularly grateful to Dr. Naeem Qureshi for seeing the dissertation through to the submission stage and to Dr. Wiqar Ali Shah, the Chairman of the Department of History at Quaid-i-Azam University, for being as supportive and empathetic as he has been.

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PREFACE

"The Culture of Power and Governance in Pakistan" is an attempt to explain the decline of the ability of the Pakistani state to govern effectively and in accordance with its own formal constitutional parameters between the 1950s and the 1990s with some overflow on either side. The major contention is that the mentality of the westernized ruling elite of Pakistan steadily regressed into its pre-British form in the context of exercising power. Thus, the state came to be treated as a personal estate by the rulers. The servants of the state became personal servants of the powerful members of the executive. The arbitrary exercise of power reemerged as a dominant norm and undermined the institutional and psychological principles and practices inherited from the British Empire in India.

This is not a moral judgment but an empirical one that can be readily confirmed by paying a visit to almost any government office. It is substantiated by living memory which, though rarely enamored of British rule, concedes that the kind of routine oppression, financial corruption and violation of the law that now characterizes the exercise of power at all levels in Pakistan did not characterize British India to the same extent. It is affirmed by the declassified documents and reports in Pakistan, which practically serve as a barometer of decline from a higher to a lower level of state morality. And finally, it is conceded, at least in private, often reluctantly, sometimes enthusiastically, by the servants of the state I have had the opportunity to interact with. One went so far as to declare that if we were to take away the much derided "colonial legacy" all that we would be left with are shrines and few palaces and cultural and

aesthetic refinements. The entire apparatus of modernity from democracy, constitutionalism, the very idea that the military ought to obey civilian authority, civil society, merit-based recruitment to public service, to our railways and canals, is a "colonial legacy." The same gentleman lamented that instead of trying to rationally comprehend the nature of our state and society we had become mired in surreal discourses and plunged headlong into heedless and irrelevant diatribes.

Perhaps it is almost inevitable that when a great empire declines the successor states that emerge operate under numerous handicaps. The new rulers are often poor imitations of the grand imperialists they replace. Their inferiority complexes, insecurities and neuroses condemn them to deprecate the imperial tradition without understanding it. Thus, the Marahata Confederacy and the Sikh kingdom were to the Timurid Empire what India and Pakistan are to the British Empire in India. The difference lies in the establishment by the British of the rule of law, autonomous institutions, - political and administrative - that continued to function, and the decision to transfer power to successor states. This meant that whereas the Timurid Empire suffered administrative breakdown and territorial breakup, the British Empire in India managed to escape the former and mitigated the latter.

When the "crisis of state" or "crisis of governance" or decline of "writ of the government" are discussed in Pakistan, rarely are the implications of these statements examined. To say that the quality and effectiveness of the state apparatus has declined indicates that at some point in time things were better. To lament the "rise of corruption" in Pakistan suggests that there was a time when corruption in the form of the privatization of public wealth and violation of laws were not as widespread. To declare that Pakistani

society has "become ungovernable" or "anarchic" and "violent" is to recognize subconsciously that this society was at one time governable, relatively ordered and fairly peaceful. So great, however, is our cognitive dissonance, capacity for self-deception and sophistry that we will ourselves, individually and collectively, to reject the plainly evident in favor of the contrived. And it is plainly evident that when the phenomenon of decline is discussed in Pakistan the overarching undercurrent is that we are in fact discussing the deterioration of the quality, ethos and effectiveness of the institutions bequeathed by the British Empire in India. That the story of Pakistan's governance is best understood as a journey to an earlier governing mentality. This mentality converted autonomous institutions into servile instruments, the rule of law into the law of the ruler, and obliterated the distinction between public and private wealth and authority. Its legacy is that whereas Pakistan was a state in 1947 it gradually became the estate of the rulers and their officials much as the pre-British empires were estates of their imperial elites. Reasoned argument and debate have given way to ideological fantasies and the parroting of received wisdoms.

Trying to comprehend this process of regression and the dangers it poses to the state and society is a major objective of this study. Unless we begin to understand *why* the phenomenon of decline is so gravitational in both intensity and extent there is no hope of it being arrested or reversed. Sadly, under the impact of irrational foreign tutelage the Pakistani elite lost the will and perhaps also the ability to think rationally about its own predicament. Instead, enormous amounts of time and money were, and are, invested in the rhetoric of national security, economic development, empowerment, conflict studies, civil society, grassroots mobilization and the like. The prescriptions that emerge from this

discourse, such as the Devolution Plan or the Access to Justice Program or various electronic governance initiatives, often aggravate the problems they are meant to resolve. Every few years, the older panaceas are brushed aside and new ones take their place thus enabling one set of donor-sponsored irrationalities to replace another. Witnessing this intellectual debacle unfold and examining its impact on the administration of the country one cannot help but recall Ibn Khaldun's admonishment that "the pasture of stupidity is unwholesome for mankind."

The unwholesomeness of the consequences of the arbitrary and delusional exercise of power was brought home painfully in 2007. As the final research and writing of this dissertation took place Pakistan was shaken by a series of inter-related developments. In Islamabad the Lal Masjid brigade effectively terrorized the entire city, made a mockery of the writ of the state and precipitated a full-fledged siege in the heart of the capital one residential sector away from the seat of government. In the NWFP the provincial law minister deprecated the devolution of power to elected local governments and warned that there was no one left in charge since the abolition of the office of the deputy commissioner and the province was sinking into anarchy. Karachi found itself the scene of mob violence on May 12, 2007, while spiraling terrorist attacks left hundreds dead and thousands injured across the length and breadth of Pakistan. Baluchistan endured military intervention by the central government even as this intervention failed to secure the "writ of the government." The arbitrary dismissal of the chief justice, followed by a prolonged agitation led by lawyers, the declaration of emergency and purge of the higher judiciary, set the stage for further confrontation and polarization. Finally, the assassination of Benazir Bhutto on December 27, 2007, was followed by widespread

rioting in Sindh and the postponement of elections. In their aftermath a coalition government of former opposition parties has come to power and further confrontation between the presidency and the parliament is almost inevitable though the timeframe may vary.

It is thus that an account of Pakistan's historical experience of governance accompanied by reflection and analysis may in some small way contribute to the amelioration of the crisis of state. One is not too optimistic, but that does not mean that one also ought to give up trying.

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INTRODUCTION

1. Theoretical Overview:

The state is a major component of historical experience. As the preeminent form of human political organization, the state performs the essential functions of establishing and sustaining order and collecting taxes. Every state must carry out these two functions with reasonable effectiveness or else it fails and anarchy ensues. States also have to negotiate with the social context in which they operate. Of all forms of the state the continental bureaucratic empire is the most widespread and for much of history was also the most successful.¹

In continental bureaucratic empires the ruler either exercised universal proprietorship over the land and moveable assets or aspired to do so and was thus hostile to the free accumulation of private property. In this sense, the entire country was the personal estate of the ruler. Many of these empires grew too large, populous, and complex for the ruler and his leading warriors to manage directly even when they monopolized armed force and controlled food production. Expansion concentrated wealth in the ruler's hands and made it possible for him to sustain further territorial acquisitions and indulge his aesthetic sense. The ruler, of course, did not want to share power with the local leaders his conquest had forced into submission. It was in this context that in the fourth and third millennia BC a class of servants² that exercised sovereignty in the ruler's

¹ For a more thorough treatment of the culture of power of the subcontinent as a whole see Ilhan Niaz, *An Inquiry into the Culture of Power of the Subcontinent* (Islamabad: Alhamra, 2006).

² For the most part the terms "royal servant", "imperial servant", "the ruler's servants" or "servants of the state" are used to refer to what would today be called bureaucrats or public servants.

name across the administrative subunits of the empire emerged.³ Although the details of this class varied from one continental bureaucratic empire to another, the essential features were nearly everywhere the same.⁴

A most important feature was that the servants of the state derived their powers from the sovereign at the center and enforced his proprietorship over the country. In the context of Sumer we find that the *en* by 2500 BC “was the leader of the bureaucracy” and made decisions concerning scribes and officials divided into over a hundred specialized functions as enumerated in official texts.⁵ In Egypt scribes were the instruments of the pharaoh’s rule and through them his will was made manifest. Senior officers were recruited from the scribe class, a special college was maintained at the capital to train these generalist administrators, and enterprising young men were advised to enter the pharaoh’s service in this capacity:

In Egypt scribes were not only amongst the elite, they knew it, and said so plainly. “Be a scribe,” ran the advice, “it saves you from toil, it protects you from all manner of labour.” “Be a scribe. Your limbs will be sleek, your hands will grow soft. You will go forth in white clothes, honoured with courtiers saluting you.” And many a senior figure in the state included “scribe” amongst the accumulated titles of his curriculum vitae.⁶

The Chinese mandarins are perhaps the most famous example of administrative elites and China was for over a millennium the continental bureaucratic empire *par excellence*

³ The transition from tribalism and chiefdoms to continental bureaucratic empires was driven by demographic growth, competition for resources, and the need to organize for defense and environmental control. The Sumerian *en*, *ensi* and *lugal*, Egypt’s pharaohs, and China’s kings and emperors were thus “...distinct from the chiefs who went before them in their capacity to make laws and to command a bureaucracy.” Geoff Mulgan, *Good and Bad Power: The Ideals and Betrayals of Government* (London: Allen Lane, Penguin Books, 2006), 18. Most of these “early states” behaved “like criminal enterprises” and were driven by hunger for arable land, women, slaves, and precious metals and stones. *Ibid.*, 18-19.

⁴ The Seljuk first minister Nizam al-Mulk Tusi elaborates numerous ways in which the ruler can use spies, reporters, slaves, and other agents to ensure proper supervision of tax-collectors and ministers, the proper training of secretaries and pages, and other officers of the state and slaves of the ruler. See Hubert Drake, trans., *The Book of Government or Rules for Kings: The Siyasetnama or Siyar al-Muluk of Nizam al-Mulk* (London: Routledge and Kegan Paul, 1960).

⁵ Mulgan, *Good and Bad Power*, 19.

⁶ Barry J. Kemp, *Ancient Egypt: Anatomy of a Civilization* (London: Routledge, 2002), 111.

blending into a remarkably coherent whole, Confucian ethics and ideology and Legalist politics and administrative practice. Though the size of the bureaucratic elite varied from ten thousand to thirty thousand depending on the dynasty in question, entry into its ranks was controlled by a competitive examination. The final test was conducted by the emperor himself whose many functions included that of the chief examiner.

The effectiveness with which these servants executed their master's orders determined their merit in the eyes of a competent ruler. The recruitment, promotion, and transfers of these servants were subject to the ruler's will though in many continental bureaucratic empires a First Minister, Royal Council, or Grand Vizier, handled routine work. The lives, property, and honor of the servants of the state were at the mercy of the ruler. Disobedience and inefficiency often entailed catastrophic consequences and so long as the ruler was competent his servants reacted to his demands with servility and an inordinate desire to please. Since the ruler considered the entire land his personal estate, his demands were often arbitrary and entailed the dispossession, enslavement, coercion, or liquidation, of many of his subjects. In this manner the arbitrary power of the ruler over his servants translated into the arbitrary power of the state over society.

A concentration of armed force, universal proprietorship, and a ruling class of servants, was complemented by a state religion or ideology. Again, while the details of this ideocratic complex varied, the basic features remained more or less constant. The ruler was regarded as either divinity incarnate or as a reflection of divinity. The official priesthood and intelligentsia held their positions at the ruler's pleasure. Their salaries, privileges and terms of service depended upon the ruler's will. Their principal task was to project the pronouncements and actions of their ruler as sublime and infallible

manifestations of the divine will.⁷ Consequently, opposition to the ruler was considered both treason and sacrilege. Often the judicial officers of continental bureaucratic empires were recruited from the priestly class. The abject dependence of this class upon the ruler safeguarded his arbitrary power, provided legitimacy, and brought a modicum of predictability to the administration of justice. The theoretic emphasis on order, obedience, and tradition, combined with the reality of routine excesses and arbitrariness, promoted an atmosphere of intellectual rigidity and moral flexibility. Occasionally, a radical despot or religious movement would change the state religion or ideology without altering the ideocratic orientation of state power. In this event, after a brief period, the new belief system would either be reduced to the status of the old having changed only the rhetoric of power, or a competent conservative ruler would succeed and restore the old beliefs. In any case the ideocratic nature of the continental bureaucratic empire remained essentially unchanged.⁸

In more recent times various "utopian projects" driven by "totalitarian" and authoritarian movements took root in continental bureaucratic states confronted with the

⁷ "The religious traits associated with kingship in a variety of global cultures are of course common, but none more so than the belief in the monarch as mediator between the social order and a higher cosmic superhuman reality." W. M. Spellman, *Monarchies: 1000-2000* (London: Reaktion Books, 2001), 13.

⁸ The experience of the Arabs during their imperial period under the Umayyad (660-750) and Abbasid (750-1258) dynasties is a case in point. In both cases the Arabs adopted the administrative practices and techniques of the continental bureaucratic empires they had defeated in war. By the mid-700s the Arab Empire had "developed an impressive bureaucracy unlike any contemporary state in the Christian West...." The "staff of salaried professional clerks (*kuttabs*)" were responsible for maintaining "records of income and expenditure and lists of those who served in the army and their rates of pay. Furthermore, the clerks who worked in the offices (*diwans*) were all laymen...." This "bureaucracy expanded even as the frontiers of the empire contracted, and by the beginning of the tenth century, against a background of chaos and disintegration, one of the clerks, Qudama ibn Ja'far (d. 948), produced a manual of administration which described the whole apparatus in exhaustive detail." Hugh Kennedy, *The Court of the Caliphs: When Baghdad Ruled the Muslim World* (London: Phoenix, 2005), 35. The pillars of Abbasid power were the salaried military and civilian bureaucracy, much as had been the case with the Umayyads. Indeed, Abbasid rule "looked very much like the Umayyad one it replaced, but with different people in charge." Ibid., 21., The Umayyad state structure and culture of power were inherited or borrowed from the continental bureaucratic Sassanid Persian and Byzantine empires.

challenge of modernization.⁹ These movements, often using ideological and pseudo-scientific rhetoric, in many ways “represented a reversion to ancient and primitive times when deity and ruler were one.”¹⁰ Perhaps the greatest of the misconceptions spread by these movements was that their motivations and ideologies existed autonomously of cultures of power and historical experiences. Soviet Russia with its Stalinist horrors and wastage of human life was far removed from the Marx-inspired Labor party in England or the social democracies of northern and western Europe.¹¹ From these and other historical experiences it appears that cultures of power bend and break ideologies but are rarely bent or broken by them.¹² Changes in rhetoric and rationalization do not translate into more just or better governance.

The total sum of relations produced by the operation of continental bureaucratic empires produced an arbitrary and ideocratic culture of power that encompassed the behavioral patterns manifested by the ruling class in the exercise of power and the reactions of the ruled. Cultures of power do, of course, vary but in all continental bureaucratic empires their inherent propensity is towards extreme arbitrariness that

⁹ Michael Burleigh, *Earthly Powers: Religion and Politics in Europe from the Enlightenment to the Great War* (London: Harper Collins Publishers, 2005), 2.

¹⁰ Ibid.

¹¹ George Orwell, writing in the *Observer* on May 23, 1943, reflected that “...if common ownership is ever established in Britain” it could never be of “the continental Marxist type.” George Orwell, *Orwell: The Observer Years* (London: Atlantic Books, 2003), 13-14. Writing about Marxism in Russia on February 15, 1948, Orwell noted that Marx expected a numerically overwhelming proletariat overthrowing a small group of exploiters. In Russia, however, the communist revolution took the form of the “seizure of power by a small body of classless professional revolutionaries” who proceeded to establish “...the dictatorship of a handful of intellectuals ruling through terrorism.” Ibid., 72-3. Those who overthrew the czar’s autocratic rule were themselves products of an arbitrary, ideological, and proprietorial culture of power, and, if anything, the aggravated insecurities and pretensions of the revolutionary “vanguard” made them far more arbitrary than the czars had ever been.

¹² One of the “terrible” paradoxes that utopian projects and the ideocratic delusions that sustain them is that “the ardent and often sincere desire to combat evil” has generated and does generate “evil on a grander scale.” Philip Zimbardo, *The Lucifer Effect: How Good People turn Evil* (London: Rider, 2007), 9. Evil itself is linked to power and “consists in intentionally behaving in ways that harm, abuse, demean, dehumanize, or destroy innocent others-or using one’s authority and systemic power to encourage or permit others to do so on your behalf.” Ibid., 5.

proceeds from the nature of the state itself. Arbitrariness, centralization, and ideological delusions, are reinforced by historical experience and broad environmental conditions.

The great weakness of continental bureaucratic empires is their over-dependence on the quality of the central executive or, in more sophisticated cases, the ruling corporation.¹³ Prolonged exposure to arbitrary rule produces failed societies characterized by atomization, apathy, fatalism, mutual distrust, risk-aversion and extreme greed. These societies are servile when the state is strong and ungovernable when the state is weak. Since the prevalent culture of power causes both the ruler and his servants to see the country as their personal estate, as soon as the former weakens the latter carve out personal estates for themselves accelerating movement towards anarchy. When a new ruler emerges the same pattern manifests itself rapidly and the petty bureaucratic estates are fused by violence and conspiracy into a single grand estate. Alternately, chaotic conditions can continue for decades or centuries until sufficient external force is applied by new imperial elites.

2. Statement of the Problem

Pakistan's sixty years of independence have been characterized by great instability, repeated recourse to extra-constitutional methods, and a high level of arbitrariness in the conduct of the state apparatus. The main objective of the present study is to explain *why* the Pakistani state thus far has failed to exercise power in a manner consistent with the dignity, prosperity and security of its citizens and act in its own enlightened self-interest. The explanation proffered rotates on three principal axes. The first is philosophical and examines Pakistan as a continental bureaucratic empire and an

¹³ A contemporary example of such a corporation is the French Great Corps of the State recruited through the elite National School of Administration (for social sciences) and Polytechnic School (for the sciences).

administrative state in which the predominance of the executive function is a structural as well as a normative imperative. The second axis is empirical and describes the *actual* exercise of power by the ruling elite through the administrative institutions and instruments. The third assesses the impact of the exercise of power by the elite has upon the effectiveness, quality and ethos of the state apparatus, as well as the reaction of society.

In terms of the theoretical framework several central themes relating to cultures of power and governance in Pakistan have been integrated into the study. The most important are the high levels of arbitrariness in decision-making and execution and the overriding propensity to treat the state as a personal estate. An equally strong tendency amongst rulers is that they treat the servants of the state as personal servants. The servants of state, in turn, carve out their own networks of patronage and try to achieve a measure of personal security and aggrandizement. In this environment policy making is far removed from realities on the ground and a high level of cynicism prevails alongside intolerance of original thinking and criticism.

The empirical basis of the theorizations enumerated thus far comprises the actions, reflections, desires and reform efforts of the ruling elite over the past sixty years. This elite, it must be borne in mind, for most of Pakistan's history can be equated with the administrative elite. It is thus important to discuss the development of political and administrative habits and the cultivation of state morality during Ancient/Medieval/British periods in the subcontinent's history in the context of their relevance to Pakistan's governance. An important qualitative difference exists between the British Empire in India and its development of autonomous institutions under laws

and earlier empires and the resultant tensions in Pakistan's culture of power and governance. The roles of the political leadership vis-à-vis the state apparatus, the higher bureaucracy and judiciary, the law and order and financial administrations, the military interventions in the state apparatus and its relations with the other arms of the executive and American/American-inspired tutelage on the culture of power and governance in Pakistan act as important empirical markers.

The assessments that flow from the theoretical and empirical inputs reflect upon the direction of Pakistan's administrative history, governance and culture of power between 1947 and 2007. All the important administrative functions of the state inclusive of law enforcement, taxation, area administration, local government, health, education, infrastructure, etc., have been simultaneously politicized and privatized. There has been a consistent erosion of merit, probity, regularity, trust and internal discipline, in the management of the state apparatus. The intellectual and moral qualities of Pakistan's administrative class have registered a steady decline under the impact of politicization, privatization and the arbitrary and unenlightened political and bureaucratic leadership. American tutelage and funding has significantly contributed to the delusional tendencies of the Pakistani ruling elite. The reformers have either failed to understand Pakistan's underlying structural imperatives or having understood failed to translate their ideas into practice. The greatest damage done was by reforms that misunderstood Pakistan's problems and were put into practice. The state has steadily become ineffective while the society has become increasingly ungovernable. Pakistan appears to have developed an unenlightened, highly arbitrary and delusional culture of power and instead of building

upon the positive aspects of the British imperial legacy and rolling back its negatives has in effect reversed the positives and exacerbated the negatives.

3. Scope

The time period covered by the present study encompasses the first sixty years of Pakistan's history (1947-2007). It also goes into the background as the need arises to explain or elaborate upon significant and relevant aspects of cultures of power and governance in other times and places. Within these sixty years of Pakistan's history greater attention is paid to years of change, upheaval and reforms. It appears that the Pakistani state apparatus undergoes bursts of reformatory activity and reassessment at five to ten year intervals. These intervals reflect in part the alternation of regimes and provide a fairly sound basis for tracing and explaining the development of Pakistan's culture of power and its impact on governance.

In spatial terms the study is multi-focal. The effort is to examine those areas of the country where changes affecting Pakistan's culture and power and governance took place. Thus, examples from East Bengal/East Pakistan, the center, and the other provinces are drawn upon to carry the narrative and interpretation forward. Within this a serious limitation, which is in part reflective of Pakistan's culture of power, is that the central government and state apparatus are preeminent. Thus, the seat of government and administrative power occupy a spatially dominant position. Even at the provincial and local levels administration and politics are defined with reference to the center under both democratically elected and undemocratic regimes.

In structural terms the scope of the study is primarily limited to the executive function. This limitation is not particularly constrictive as the executive function accounts

for about nine-tenths of the state's activities. Thus, within the executive function the leadership, civil service, military, justice system, financial administration, local government, and the rise and growth of corruption, are singled out for examination. The study is not as concerned with the intentions, policy statements, and rhetoric of reformers and politicians, as it is with the actual performance, structure, ethos and culture of power of the Pakistani state from 1947 to 2007.

4. Significance

There is perhaps no human activity that has the ability to have greater positive or negative effect on the psychological and material conditions of life than governance. Appreciating how and why we were and are governed is vital to the improvement of the quality of life. In continental bureaucratic empires the servants of the state determine in large measure the quality and effectiveness of governance. The executive function builds infrastructure, maintains order, collects taxes, assigns rights in land, regulates capital and labor, provides agricultural subsidies and even legislates by ordinance and exercises magisterial and quasi-judicial powers in many cases. It accounts for nine-tenths of the state's activities, past and present, and thus the executive function determines more than any other the credibility of the state as a whole in continental bureaucratic states such as Pakistan. The internal discipline, organization and quality of this function is of central importance to governance and the overall well-being of society.

For instance, in order to reduce carbon emissions to prevent or mitigate global warming, a state must employ inspectors, supervisors, adjudicators, statisticians, record-keepers, secretaries, technicians, training staff and general administrators. Since controlling carbon emissions involves regulation of motorized vehicles and factories,

enforcement falls to the area administration. If the enforcement staff is recruited with little reference to their competence, paid poorly, given powers to fine violators and register cases under laws and are promoted and transferred whimsically, the state will have merely added another layer of corruption, venality and inefficiency. It will have also wasted taxpayers or borrowed money and not achieved much on the ground. Merely passing laws in the local, provincial, or national assemblies, or judicial activism, or activists staging protests, however well-intentioned, will not, to continue with our example, lead to the enforcement of pollution controls on carbon emissions.

A state is part cognition, part organism, and part machine. There is a chain of cerebral, organic and mechanical reactions that needs to occur in order to translate any policy or law, be they for mass murder or the protection of animal rights,¹⁴ into effects felt on the ground. This study's significance is that it dissects, describes, and explains the functioning of the cognitive-biomechanical apparatus of Pakistan. Any serious attempt to try and reform governance in Pakistan or other developing countries must take into consideration the history, culture, and ethos of the state apparatus. Unfortunately, reforms have centered either on politics and development planning or such trivial curiosities as youth parliaments and gender sensitization seminars that serve to waste taxpayers' money or borrowed funds that mortgage future generations. The exercise of state power is an existentially serious activity, perhaps the only one that requires wisdom, strength, and good fortune, including the wisdom and strength to take advantage of good fortune in preparation for harder times, in equal measure. By explaining the exercise of state power in Pakistan it is hoped that the present study will generate further research on the subject

¹⁴ Nazi Germany opted to do both. In his first few months as chancellor, Hitler "signed no fewer than three separate laws providing for the protection and proper treatment of animals...." Andrew Roberts, *Hitler and Churchill: Secrets of Leadership* (London: Phoenix, 2003), 7.

and lead to greater understanding of our collective and worsening predicament which, in turn, is a necessary prerequisite for its amelioration.

5. Methodology

The present study tries to deal with facts and patterns of behavior and the structures that modify them when people are placed in positions of power. Consequently, the approach adopted is primarily analytical with a strong element of interpretation. In trying to provide a rational explanation of a widely felt phenomenon that has touched almost everyone's life in Pakistan, this study is oriented towards explaining "why" things are the way they are in the context of Pakistan's culture of power and governance.

There is also a strong quantitative component within the main narrative, especially in sections that cover the financial administration, corruption, or in some cases the justice system. It is particularly useful to trace the rise in the growth of corruption, for instance, in the public perception through surveys past and present carried out by the state as well as non-government agencies. It also helps to quantify the costs of corruption and wastage on the national finances or bring home the amount of time wasted in delay, indecision, and inefficiency by the criminal justice system. These facilitate the task of explaining the price Pakistan has paid for its crisis of governance and the arbitrary culture of power that holds sway over the apparatus and those who are its political masters as well as ordinary citizens. Together, the employment of qualitative and quantitative methods work to reinforce the narrative and help guide the interpretation and explanation of events and behavior that is the study's major objective.

6. Review of the Literature and Sources

The major sources upon which this study draws include the declassified cabinet record held by the National Documentation Centre and Cabinet Secretariat Library in Islamabad, private papers, interviews, state reports and publications, as well as memoirs, books and academic studies. An important drawback in the published sources about Pakistan is that their focus is primarily on politics or policy and the sources upon which they are themselves based are the public statements and posturing of important players.¹⁵ All of them engage in self-justification and generalize from personal experience. It is interesting to contrast their perspectives with the official record or with assessments made by the commissions and committees constituted to submit reports on the administration during their periods of association with the political executive. For instance there is a general tendency amongst the civil servants and military officers to idealize the Ayub Khan period and denigrate the Bhutto era.¹⁶ They also tend to focus on politics and rarely try to explain the underlying causes of the state's behavior hanging on to much of the information that makes them privileged insiders.¹⁷ Others, such as Mubashir Hasan, blatantly try to transfer the responsibility onto others by arguing that they never had power to begin with.¹⁸ What is fascinating is that there was probably no civilian

¹⁵ Some examples of political memoirs include Ayub Khan's *Friends not Masters* (Lahore: Vanguard, 2000) and Sherbaz Khan Mazari's *Journey to Disillusionment* (Karachi: Oxford University Press, 1999). The former is from a position of authority the latter reveals the opposition perspective. Both are concerned with politics and leadership, not with an understanding of the state. The former is useful however for comprehending the military's perception of politics and administration especially when squared against the official record of the cabinet and the numerous commissions and reports of the period. Other important examples in the context of the military's understanding of politics and administration include; Khalid Mahmud Arif, *Working with Zia: Pakistan's Power Politics 1977-1988* (Karachi: Oxford University Press, 1995) and Gul Hasan's *Memoirs* (Karachi: Oxford University Press, 1993).

¹⁶ Roedad Khan, *Pakistan a Dream Gone Sour* (Karachi: Oxford University Press, 1997).

¹⁷ Sajjad Ali Shah, *Law Courts in a Glass House: An Autobiography* (Karachi: Oxford University Press, 2001).

¹⁸ Mubashir Hasan, *The Mirage of Power: An Inquiry into the Bhutto Years 1971-1977* (Karachi: Oxford University Press, 2000).

government other than Jinnah-Liaquat Ali Khan which wielded greater power than the PPP government from 1971-1977. Every aspect of national life, from the nationalization of the services and industries to the drastic administrative changes and purges of the bureaucracy indicate that the civilian government of which Mubashir Hasan was a prominent member (finance minister) wielded very real power.

Between the history of politics and the politics of history¹⁹ little effort has been made to explain the actual behavior of the state apparatus and the structures through which power has been exercised in Pakistan. What has been attempted is by way of "development" or "democratic" change/transformation and is heavily influenced by American patronage and tutelage. Thus, for instance, *The Post-Colonial State and Social Transformation in India and Pakistan*, *Pakistan Authoritarianism in the 1980s* and *Politics and the State in Pakistan* remain content with an analysis of policies and politics.²⁰ There is some attempt in the latter to probe beneath the surface, but the broad thrust is towards contextualizing the state in a political framework. A core problem with the academic discourse in and about Pakistan is that it seems to take the Second World War as the starting point and the post-colonial state is interpreted in light of received wisdoms such as democracy, economic development, national security, and other devices churned out by American-financed academic industries. Even those who oppose this trend do so from a Marxist or Islamist perspective and are thus also the recipients of

¹⁹ Lawrence Ziring, *Pakistan: At the Crosscurrents of History* (Lahore: Vanguard, 2004); Ian Talbot, *Pakistan: a Modern History* (Lahore: Vanguard, 1999); Rafique Afzal, *Pakistan: History and Politics 1947-1971* (Karachi: Oxford University Press, 2001), and Hamid Khan, *Constitutional and Political History of Pakistan* (Karachi: Oxford University Press, 2001), are some of the more recent additions to this genre.

²⁰ S. M. Naseem and Khalid Nadvi, eds., *The Post-Colonial State and Social Transformation in India and Pakistan* (Karachi: Oxford University Press, 2002); Craig Baxter and Syed Razi Wasti eds., *Pakistan Authoritarianism in the 1980s* (Lahore: Vanguard, 1991), and Mohammad Waseem, *Politics and the State in Pakistan* (Lahore: Progressive Publishers, 1989).

tutelage. This is understandable but as it is subsequently demonstrated the impact these alien discourses have had on the ability of the state to think and act rationally has been tragic. Related to this is failure to grasp continuities amidst change, exceptions such as Mohammad A. Qadeer's *Pakistan: Social and Cultural Transformation in a Muslim Nation* notwithstanding, or appreciating the role of the state, as opposed to politics, in historical process.²¹ While researching Pakistan's culture of power the official record was found to be immeasurably more helpful than the published sources. Therefore, while appreciating the perspective and insight of other writers this dissertation relies primarily on the declassified record. It may also be fit to mention that many of the earlier writers on Pakistan's politics did not pay much attention to the structure or ethos of the administrative institutions.

In terms of the National Documentation Centre holdings the entire declassified record on governance has been consulted and is included in the Bibliography and Sources. In addition to these files some fifty important reports and summaries on different aspects of the state apparatus have been consulted from the Cabinet Secretariat Library and the National Documentation Centre. Since this study is addressed to public servants and academics in Pakistan great care has been taken to ensure that the inferences drawn are grounded in the official record of the state itself. This serves the added research purpose of revealing the self-perception of the rulers and their diagnostic abilities even as it sheds light on their inability to act effectively to retrieve the situation.

²¹ One serious attempt to grasp the nature of continuity and change in Pakistan is Mohammad A. Qadeer, *Pakistan: Social and Cultural Transformation in a Muslim Nation* (London: Routledge, 2006). Qadeer emphasizes competing influences such as modernization, indigenization and Islamization and observes that there are major disconnects in terms of an underdeveloped, if not regressive non-material culture, between the public and private spheres and imagined versus experienced culture. These disconnects have grown in part due to the failure of the state to maintain standards and order in practically every sphere ranging from education to law and order.

It is hoped that this study by bringing forward such a large concentration of primary sources, many of them never used before and certainly not in such abundance, will stimulate interest and further inquiries. For example, one of the most remarkable insights into the intellectual potential of the Pakistani elite is S. K. Dehlavi's "Report on the Administrative Law & Courts in England, France, Germany, Switzerland, Italy, Holland, Belgium, Sweden & Spain."²² In a period of about four months a Pakistani generalist administrator produced a report of immense complexity on an ostensibly technical issue in a lucid manner and successfully addressed the development of executive accountability in Europe on a continental scale. In the course of the report the role of executive legislation in England in undermining parliamentary power and the neatly compartmentalized theories of rule of law, administrative law and the Council of State in France, as well as the efforts made with greater or lesser success in other European countries to make the administrative institutions, i.e. the executive function, accountable before the rule of law are discussed. The report also compares favorably with the works produced by foreign consultants on Pakistan and falls in the same category as the landmark 1986 report submitted by the committee constituted by the government to study corruption or the papers and summaries prepared between 1981 and 1985 by the Establishment Division. It shows that *if* an effort had been made early on Pakistan could have developed an autonomous and rational understanding of its predicament.

The background sections within the narrative for the British Empire in India are based upon sources consulted at the School of Oriental and African Studies (SOAS) library, the Senate House Library, and the British Library (BL) in London. These libraries

²² S. K. Dehlavi, "Report on the Administrative Law & Courts in England, France, Germany, Switzerland, Italy, Holland, Belgium, Sweden & Spain" (Rome/Islamabad: Ministry of Foreign Affairs/Constitutional Commission, 1961).

were consulted thanks to the sponsorship of the Charles Wallace Fellowship Trust for Pakistan in the summer of 2006. Published translations of classical texts on statecraft and administration and a diversity of scholarly inputs on other cultures and civilizations have also been utilized.

Some of these include well-known published primary sources such as the *Jinnah Papers*²³ or the *Transfer of Power* volumes,²⁴ the *Arthashastra* and *Ain-i-Akbari* and more recent works such as *Corruption and the Decline of Rome*²⁵, *Identity and Violence*,²⁶ and *Indian Summer*.²⁷ In terms of the historical discipline this study is inspired and affected by a large number of works of macro-history that do not necessarily find their way into the main text or references. Perhaps the most significant of these are by Ferdinand Braudel and include *A History of Civilizations*²⁸ and the capitalism trilogy comprising *The Structures of Everyday Life*, *The Wheels of Commerce*, and *The Perspective of the World*.²⁹ Other important influences include C. A. Bayly's *The Birth of*

²³ Z. H. Zaidi, ed., *Quaid-i-Azam Mohammad Ali Jinnah Papers: Prelude to Pakistan, 20 February – 2 June 1947*, vols. I-XV. (Islamabad: National Archives of Pakistan, 1993-2007).

²⁴ N. Mansergh and E. W. R. Lumbey, eds, *Constitutional Relations Between Britain and India: The Transfer of Power*, vols. I-XI (London: Her Majesty's Stationery Office, 1970-82).

²⁵ Ramsay MacMullen, *Corruption and the Decline of Rome* (New Haven: Yale University Press, 1988).

²⁶ Amartya Sen, *Identity and Violence: The Illusion of Destiny* (New York: W. W. Norton and Company, 2006).

²⁷ Alex Von Tunzelmann, *Indian Summer: The Secret History of the End of an Empire* (London: Simon & Schuster, 2007).

²⁸ Ferdinand Braudel, trans. Richard Mayne, *A History of Civilizations* (New York: Penguin Group, 1995).

²⁹ Ferdinand Braudel, trans. Sian Reynolds, *Civilization and Capitalism 15th-18th Century* (London: Phoenix Press, 2002-2003). One of the most sophisticated and balanced analyses that have emerged over the past century is that of the Annales school in France. The late Ferdinand Braudel, a leading exponent of this school, focused attention on mentality, and the persistence of continuity amidst economic change over the past five hundred years. One of the most important concepts is that of "Worldtime" which "might be said to concentrate above all on a kind of superstructure of world history: it represents a crowning achievement, created and supported by forces at work underneath it, although in turn its weight has an effect upon the base." Ferdinand Braudel, *The Perspective of the World: Civilization and Capitalism 15th – 18th Century* (London: Phoenix Press, 2002), 18. When one considers "...the great subcontinent of India: draw four lines-along the coast of the Coromandel, the Malabar coast, from Surat to Delhi and from Delhi to the delta of the Ganges. You have now enclosed India in a quadrilateral. Only the edges of this quadrilateral can really be said to have lived at the same pace as the outside world... Worldtime applied primarily to such axes of activity." Ibid. Returning to the theme of continuity and change Braudel adds that

the Modern World,³⁰ Arnold J. Toynbee's *A Study of History*,³¹ and Quentin Skinner's historical study of humanism and neo-Romanism in early modern Europe titled *Visions of Politics*.³²

7. Outline

In addition to the Introduction, Conclusion and Bibliography and References, the present study is divided into seven chapters:

- Chapter One: Imperishable Empires, provides the historical background to the present study and traces the rise and fall of major continental bureaucratic empires in the subcontinent as well as their contribution to the culture of power of the region.
- Chapter Two: Original Sins, examines the first few years of Pakistan's independence and identifies some of the critical fissures that opened up. It also highlights the decline of the political leadership and the rise of a governing corporation of civilian and military officials.
- Chapter Three: Mandarins, is essentially about the civil service and higher bureaucracy in Pakistan. The mandarins were the officials who ruled imperial China and were recruited through a competitive examination. They provided the state with its bureaucratic leadership and served the emperor not only as administrators but also as political agents, governors, and conciliators. In many respects they resembled in ethos, corporate profile, and influence, the higher

"...a country develops because it is already developing, because it is caught up in a movement already underway which helps it. So the past always counts. The inequality of the world is the result of structural realities at once slow to take shape and slow to fade away." Ibid., 50.

³⁰ C. A. Bayly, *The Birth of the Modern World: 1780-1914* (Oxford: Blackwell Publishing, 2004).

³¹ Arnold J. Toynbee, *A Study of History*, abridged in two volumes by D. C. Somervell (New York: Dell Publishing Co., 1978).

³² Quentin Skinner, *Visions of Politics* (Cambridge: Cambridge University Press, 2002).

bureaucracy of Pakistan, especially its civil service component from 1953 to 1969. As the civil service was the premier institution of the British Empire in India and, relative to the other institutions inherited by Pakistan, it was the best developed, its performance is of great relevance to the quality of governance.

- Chapter Four: Praetorians, is about the military and its role in providing leadership to the state apparatus. The Praetorians were the elite imperial guard of the Roman Empire and were stationed outside Rome after the fall of the republic in 27 BC. After the succession of competent emperors ended in AD 180 the imperial guard assumed political control. This chapter also examines how Pakistan's senior military commanders have perceived the state and its administration and identifies the characteristics of the Pakistani praetorian's mindset. It also studies the impact of military interventions on the administration of the country and the role that it has played in Pakistan's administrative decline.
- Chapter Five: Guardians is about the justice system in Pakistan with particular emphasis on the higher judiciary and the police. It examines how the Pakistani state apparatus has discharged the principal function of maintaining law and order.
- Chapter Six: *Diwans* is about the financial administration of Pakistan. The *diwans* were the senior revenue officials in pre-British India and exercised tremendous power often independently of the governors. In this chapter the nature of tax collection in Pakistan, the quality of the institutions that collect the state's revenues, and their impact on the overall performance of the state, are addressed.

- Chapter Seven: Grand Seigneurs addresses the role of corruption in Pakistan. The term Grand Seigneur was used by Europeans to refer to the Ottoman Sultan. One of the facets of the Ottoman statecraft that impressed the Europeans as being very different from their own experience of governance was that the sultan was the proprietor of the entire empire. From this difference in principle flowed differences in attitude, administrative structure, and public ethos. A peculiar feature of this ethos was that away from the emperor's watchful eye his officials in their more limited capacities imitated their master's propensity to treat the state as personal estate. This chapter examines the proprietorial attitude of Pakistan's rulers and public officials towards the state and the impact that this has had on the effectiveness and credibility of the state. It also examines the public perception of the corruption and tries to quantify the costs of corruption in Pakistan.

CHAPTER ONE

IMPERISHABLE EMPIRES

1.1 Continental Bureaucratic Empires and the Culture of Power of the Subcontinent: Ancient India, 2000 BC – AD 1000

There is a strong probability that the Indus Valley civilization was a continental bureaucratic empire.¹ The broad environmental conditions conducive to the emergence of hydraulic civilizations along the Nile and in Mesopotamia are found in the Indus region – aridity, plains bounded by natural obstacles such as mountains, deserts, and plateaus and a ready source of fresh water that doubled as a communications system. The exploitation of this environment required the capacity to mobilize and organize labor on a large scale, a food distribution system, and a strong central authority. By 2250 BC this central authority appears to have exercised effective control over the hydraulic heartland of the Indus River Valley and exerted influence through commerce and diplomacy as far as the Oxus and northern India. Communications within the core territories of the Punjab and Sindh were waterborne. Larger than its contemporaries in Egypt and Mesopotamia, the Indus Valley civilization manifests several signs of centralization.

The most important is the Indus civilization's urban development. In a much later scenario Ibn Khaldun emphasized that urban centers "with their monuments, vast

¹ A thought provoking piece of theorization is found in Aitzaz Ahsan's work on Pakistani national identity. Seeking to identify the causes of the Indus Valley civilization's extraordinarily static and uniform nature combined with the absence of architectural evidence of royalty, he contends that probably "Fundamentalist priests and dogma held sway over the Indus cities." Thus "there was no initiative, no science, no invention" during the period of Indus ascendance. Aitzaz Ahsan, *The Indus Saga and the Making of Pakistan* (Lahore: Nehr Ghar Publications, 2001), 30.

constructions, and large buildings" required "united effort and much co-operation."² Given the exertion and sacrifices required, people "must be forced and driven to build cities."³ Either the "stick of royal authority is what compels them" or "reward and compensation" on such a large scale that only such authority could furnish, are necessary.⁴

In the context of the Indus Valley civilization, which covers an area that stretched from Gujarat to the Punjab with a presence as far as the Oxus and the Makran Coast of Balochistan in present-day Pakistan, the cities displayed a striking degree of uniformity. Each city drew upon an agricultural hinterland for food and resources. The production and distribution of these certainly involved scribal intervention on the Egyptian pattern. The regimentation, orderliness, and size of the cities also point to the existence of a powerful central authority that operated through a class of appointed servants. These bureaucrats were presumably responsible for managing the agricultural cycle, maintaining order, collecting taxes, and supervising large-scale construction activities, especially fortifications, baths, and granaries. The economic and social status of the bureaucracy corresponded to its power and privileges. The rulers of what is sometimes described as the Harappan⁵ Empire, were possibly legitimated by a homogenizing religion or ideology. Until, however, the writings of the Indus Valley civilization are deciphered, we must confine ourselves to the statement that it was probably a continental

² Ibn Khaldun, *The Muqaddimah (An Introduction to History)*, trans. Franz Rosenthal, ed. N. J. Dawood (London: Routledge and Kegan Paul, 1978), 263. For Ibn Khaldun, the terms "dynasty" and "state" were synonymous for "A state exists only insofar as it is held together by the dynasty; when the dynasty disappears the state collapses." Ibid., xi.

³ Ibid., 263.

⁴ Ibid.

⁵ Harappa was one of the most important cities and located at the center of the Indus Valley civilization.

bureaucratic empire that manifested substantially the same ideocratic and arbitrary culture of power as its contemporaries.

For the Aryan period evidence is more forthcoming. In the sixth century BC continental bureaucratic empires emerged in the Ganges river valley. Able to mobilize resources and manpower more effectively than tribal republics or petty chiefdoms, the continental bureaucratic empire outfought other less centralized and arbitrary forms of the state.⁶ By the fourth century BC the Nanda dynasty had brought much of the northern plain under its control and fielded an army two hundred thousand strong. In or around 320 BC the Nandas were overthrown by their former army chief, Chandragupta Maurya, in collusion with his wily councilor, Kautilya and other elements disaffected by Nanda oppression and harshness.

It is to Kautilya that posterity owes a remarkable and holistic account of the exercise of state power in Ancient India.⁷ At the heart of the absolutist *Arthashastra*⁸ State was the ruler who was advised "A king can protect his kingdom only when he himself is protected from persons near him, particularly his wives and children."⁹ Few moral relationships could exist in this culture of power. Princes, compared to crabs, vipers, and fighting rams, are a great danger to the ruler and thus "It is better to kill them

⁶ Karen Armstrong goes so far as to describe the monarchical states such as Magadha and Kosala as "modern kingdoms" with "streamlined bureaucracies and armies" loyal to the monarch. They were thus "far more efficiently run" than the tribal oligarchies and aristocracies. Karen Armstrong, *Buddha* (London: Phoenix, 2002), 20.

⁷ Different versions and editions of Ancient India's compendium on statecraft include: Kautilya, *The Arthashastra*, trans. L. N. Rangarajan (New Delhi: Penguin Books, 1992); Kautilya, *Arthashastra* trans. R. Shamasastry's (Bangalore: Government Press, 1915); and B. P. Sinha, *Readings in Kautilya's Arthashastra* (New Delhi: Agam Publishers, 1976). Kautilya was the prime minister to Chandragupta Maurya, the founder of the Maurya Empire, about 320 BC.

⁸ The *Arthashastra* is often "mistakenly believed" to be "a text on Hindu political thought." This is highly misleading given that Kautilya is not concerned with presenting a philosophy of government. In fact, the treatise is "a text-book on administration in a monarchical state." Romila Thapar, *Cultural Pasts: Essays in Early Indian History* (New Delhi: Oxford University Press, 2005), 411.

⁹ Kautilya, *The Arthashastra*, trans. Rangarajan, 154.

quietly if they are found wanting in affection."¹⁰ Queens and other members of the royal household are to be kept perpetually under surveillance by spies.¹¹ All those with access to the king were considered covetous of his throne. This was perfectly understandable as the king was often a usurper and his arbitrary powers generated immense fear, resentment, and greed amongst his subordinates. As long as the king, who was "the embodiment of the state," employed "without hesitation, the methods of secret punishment" against real or perceived enemies, the calculus of fear and greed produced servility.¹² The instant the royal resolve or capability to inflict punishment was perceived to falter, accurately or inaccurately, the same calculus produced rebellion.

The Mauryan ruler was the universal proprietor and "The metropolitan area was under a highly centralized system of administration."¹³ The ordinary cultivator paid rent to the imperial treasury. The servants of the ruler were paid cash salaries and granted lands as revenue assignments. The official priesthood and other recipients of imperial largesse also received revenue assignments in land. Land was held by cultivators so long as they paid taxes and by imperial servants during their period of employment. The ruler owned or controlled hydraulic infrastructure, settled villages as insular caste-bound units, and maintained an excellent network of royal highways complete with state-owned caravanserais. Merchants labored under the perpetual threat of confiscation, their trade regulated, their organizations subservient to the state, and their profits and prices fixed by bureaucrats.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid., 157-8.

¹³ Thapar, *Cultural Pasts*, 430.

The management of the sprawling Mauryan estate, which at its height stretched from Bihar to the Oxus, necessitated its division into administrative subunits. The smallest unit was the village. Ten villages made a sub-district. Twenty sub-districts (two hundred villages), made a district. Two districts (four hundred villages) constituted a division. Finally, two divisions (eight hundred villages) made a province. Cities were organized into four divisions further divided into multiple wards. At the center, some three dozen ministries and departments performed functions as diverse as the maintenance of order, tax collection, regulating trade and industry, espionage, prostitution, and enforcing detailed rules and regulations for those who washed clothes for a living.¹⁴ Every task was entrusted to a salaried bureaucratic hierarchy whose members were recruited, promoted, transferred, or liquidated at the ruler's will. Kautilya warns aspirants to official posts: "Service under a King has been compared to living in a fire. A fire may burn a part of one's body and, at its worst, all of it; but a King may either confer prosperity or may have the whole family; including wives and children killed."¹⁵ Consequently, an intelligent officer makes "self-protection his first and foremost concern."¹⁶ This goal was best achieved through complete obedience in action, word, emotion, and thought, for the royal presence in the form of spies was everywhere, sensitive to the slightest indications of dissent.

The effectiveness and grandeur of the state depended upon the intellect and work ethic of the ruler and his appointed servants. Of every twenty-four hours, the ruler was to spend separate ninety-minute periods to review reports on defense and finances, grant audiences, receive revenue and make official appointments, draft correspondence and

¹⁴ Kautilya, *The Arthashastra*, trans. L. N. Rangrajan, 246.

¹⁵ *Ibid.*, 205.

¹⁶ *Ibid.*

consult with spies, inspect military forces, confer with his defense chiefs, manage secret agents, discuss matters of state with senior officers and appoint spies, respectively. In addition to these twelve hours of regular work, an additional six hours were devoted to secret deliberations and security-related matters. The ruler who stood at the heart of the *Arthashastra* bureaucratic machine was supposed to work eighteen hours a day and so set an example for his servants to follow.

It was in the ruler's own interest that his servants, absolute servility assumed, were recruited, transferred, and promoted on merit. Candidates for public office underwent tests of *dharma* (morality and law), *artha* (finance and worldly affairs), *kama* (recreation and aesthetics), and courage. A candidate who excelled at every test was appointed a palace official. Those that excelled at morality and law received judicial, police, and district management postings. Demonstration of superior excellence in *artha* netted appointments in the financial administration. Success in recreation and aesthetics secured postings in the recreational establishment responsible for managing brothels, training musicians, and the like. Excelling in the test of courage was the path to the ruler's personal bodyguard and intelligence service. Candidates that failed every test retained hope, if the ruler so wished, of appointments in the departments of mines, forestry, elephants, or workshops.

Salaries ranged from forty-eight thousand *panas* (silver pieces) a year for the royal councilors, guru, priest, defense chief, crown prince, queen, and queen mother, to four thousand to twelve thousand *panas* a year for the bureaucratic middle order that comprised, among others, governors, auditors, and comptrollers, to three thousand to five hundred *panas* for a lower order that included district officers, brothel managers, local

spies, and village headmen. Between the apex and the middle order was a grade of high palace officials paid twenty-four thousand *panas* a year. Beneath the officer grades subsisted an amorphous mass of petty clerks, runners, peons, and menial workers, all paid small but regular cash salaries. The civilian side of the apparatus was complemented by a vast standing military establishment estimated as at much as six hundred thousand strong, organized on the same bureaucratic principles, and paid regular salaries.

Controlling this leviathan was no easy task. It was to sustain the state machinery that extensive economic controls had to be introduced lest the cost of living undermine the purchasing power of public sector salaries and encourage officers to abuse their authority. A system of regular correspondence between the palace and the districts combined with royal inspections enhanced the ruler's control of his servants. The most effective instruments of royal control were spies. Royal agents installed in covers as varied as senior officers, innkeepers, wandering ascetics, and poison specialists disguised as cooks in the households of royal servants, reported to the king and his senior officers. The objective of the pervasive intelligence apparatus was not to prevent corruption. This was recognized as impossible given the size and complexity of the Mauryan Empire. Rather the aim was instilling in the hearts and minds of royal servants fear of their master's omniscience and omnipotence. In so doing, corruption (that is stealing from the sovereign) would be reduced and any adverse impact on the ruler's writ minimized.

The ideocratic complex of the Kautilyan continental bureaucratic empire comprised the familiar combination of an official religious establishment and a bureaucratic intelligentsia. The ruler assumed the mantle of divine sanction and thus tongues that committed sacrilege and treason by speaking ill of him were to be ripped

from their indiscreet owners' mouths. Religious ceremonial imbued the ruler and his servants with an aura of cosmic significance, as did the employment of *pandits* (learned Brahmins) in the judicial service. In the districts and cities holy men, gurus and tricksters, all on the royal payroll, projected the ruler's infallibility and divine attributes, and worked with spies, who found out and secretly punished the dissatisfied. When the last of the great Mauryan rulers, Ashoka, converted from Hinduism to Buddhism, the state religion also changed. However, while the rhetoric of the state changed, the structure of the ideocratic complex did not – a Buddhist bureaucratic intelligentsia and official priesthood were created.¹⁷ The ideocratic complex continued to reflect the use of the ruler's arbitrary powers for self-justification and self-aggrandizement and while Ashoka was proclaimed the "Beloved of the Gods"¹⁸ the officers of *dharma* or *dharma-mahamattas* "appear to have been powerful officers with special privileges, possibly fully aware of their role in propagating an imperial ideology."¹⁹ The hollowness of Ashoka's proclaimed pacifism and Buddhism is evidenced by the sequence of events:

...the greatest of the Mauryan emperors, felt remorse and adopted Buddhism *after* he had bloodily 'pacified' most of the subcontinent stretching up into Afghanistan, and was ensconced as the unchallenged *chakravartin* (the supreme hegemon), in other words, he renounced violence only *after* he had done away with all conceivable threats to himself and his realm.²⁰

After the disintegration of the Mauryan Empire in the second century BC the subcontinent broke up into numerous kingdoms and principalities each governed on the

¹⁷ In his edicts Ashoka entrusts "officers" and "rural officers" as well as "rural chiefs" to assemble the people and explain to them the principles of Buddhism and the new thinking. Thapar, *Cultural Pasts*, 427.

¹⁸ Ibid., 436.

¹⁹ Ibid., 434.

²⁰ Bharat Karnad, *Nuclear Weapons and Indian Security: The Realist Foundations of Strategy* (New Delhi: Macmillan, 2002), 325. In this groundbreaking and informative work, Karnad demolishes most popular notions of Hindu-Indian pacifism, and Gandhian and Nehruvian idealism. One of the lessons that can be drawn from Karnad's work is that a remarkably large section of the Indian ruling class, came to believe its own lies and, consequently, placed severe constraints on the Indian "will to power" and pursuit of national interests. It also confused the expression of desire or intent and the receipt of praise with real achievement and the accumulation of power and respect.

principles of the Kautilyan continental bureaucratic empire. In the fourth century AD another great continental bureaucratic empire under the Gupta dynasty emerged. A series of wars brought much of the subcontinent under Gupta rule by the fifth century. The core of this empire was the old Maurya heartland. Its capital, Pataliputra, was the old Maurya capital. The Gupta rulers proclaimed themselves god-kings, exercised universal proprietorship, and brought the country under the direct rule of their appointed servants distributed across the administrative subunits of the empire. The key figure was the *visayapati* (district officer), who controlled rights in land and performed executive and judicial functions. Village headmen were official nominees and the state undertook extensive hydraulic projects to increase yields from agriculture and settle new villages on an insular caste basis. The state monopolized armed force, mobilized labor on a vast scale, minted currency in gold, and possessed an official priesthood and bureaucratic intelligentsia that mythologized the past, preached the virtues of obedience, and projected the ruler as a divine, infallible, being. After the Gupta Empire fragmented in the sixth century the new states that emerged modeled themselves on the same pattern regardless of size. From the smallest Rajput principality to medium-sized successor kingdoms, the same combination of universal proprietorship, militarism, reliance on appointed servants, and divine sanction, prevailed.

The continental bureaucratic empires of Ancient India manifested an ideocratic and arbitrary culture of power similar in many respects to continental bureaucratic empires in other parts of the world. The country was the personal estate of the ruler. The micro-management of this estate was entrusted to a complex and vast bureaucracy subject to the ruler's arbitrary will. An official priesthood and bureaucratic intelligentsia, both

dependent on the ruler's favor for pay and privileges furnished the illusion of legitimacy. All wealth, status, and honor flowed from the ruler's will and could, therefore, be arbitrarily withdrawn. An extensive network of reporters, agents, and spies, kept the ruler informed and silently visited retribution upon those guilty of thinking, speaking, or acting, against the *chakravartin*. A large military establishment organized on bureaucratic principles stood at the ready to restore order, respond to emergencies, expand territorial frontiers, and punish rebellious tributaries.

Society was deliberately atomized by the state into sub-political, insular, caste-based units placed in direct contact with officers representing the overwhelming powers of the central state. The Mauryan state, for instance, "took the precaution of keeping its peasants unarmed."²¹ Society responded with servility when the state was strong and with rebellion if the state was perceived to be weak.²² Successful rebellion, however, led to anarchy and the rise of warlords and petty tyrants who were even more arbitrary, capricious, and unenlightened. The Indian society simply lacked adequate horizontal or vertical power associations capable of creating an organic political order when the external force of the imperial state dissipated. After many centuries of breakdown, an apathetic and brutalized society was, once again, brought under the direction of a *chakravartin*. The new order, however, was basically a replica of the old and endured only so long as the intellectual and moral qualities of the rulers remained high. This, however, was often the product of luck or circumstance and if the war of succession that

²¹ Thapar, *Cultural Pasts*, 227.

²² The intermediate forms of resistance included renunciation, flight, "philosophical acrobatics", migration, violating existing caste regulations and joining another sub-sect. Ibid., 213-32. The nature of the dissent itself indicates that the relative power of the state was significant. One might also consider that the ability of a rural and caste-ridden society to resist a determined armed minority keen to impose demands on it in the form of taxes and compulsory service would not be very great.

often followed the death of a ruler failed to produce a competent heir, the state would fail and society would be left at the mercy of master-less, fragmenting, arbitrary, and remorselessly selfish, bureaucratic instruments. Kautilya warned that in the absence of a *chakravartin*, there was a real danger of a foreign invader successfully conquering the subcontinent and establishing an empire of his own. Six centuries after the fall of the Guptas, the Turks invaded a subcontinent convulsed by conflict and were established as the supreme hegemonic element by the mid-thirteenth century.

1.2 Continental Bureaucratic Empires and the Culture of Power of the Subcontinent: The Delhi Sultanate, 1206-1526²³

The Turks were a tribal people on the margins of civilization that came into West Asia and North Africa as military slaves of the Arab Empire. In the mid-800s the Abbasid ruler, Mu'tasim, established an imperial guard "a few thousand strong but tough, disciplined and devoted to their master" comprising only Turks.²⁴ By the late-800s AD the Turks established themselves as the ruling class of a fragmenting Arab Empire.²⁵ Like the Arabs before their imperial ascension, the Turks had no experience of ruling a bureaucratic state. Again, like the Arabs, once the Turks acquired power they quickly absorbed the ideocratic and arbitrary cultures of power of the continental bureaucratic empires that fell under their sway. At a more formal level this transition meant the

²³ The term "Sultanate" is a bit misleading. The Delhi Sultanate was a succession of dynastic states that rose and fell between 1206 and 1526. The dynasties were the Shamsids (Slave Dynasty), Ghiyathids, Khaljis, Tughluqs, Sayyids and the Lodhis. Most of these dynasties had only one great ruler under whom the Delhi Sultanate exercised effective control of the Indo-Gangetic plain and penetrated the Deccan. The total period of effective central authority for the Delhi Sultanate is about a century and a half. However, the maximum total period of continuous, effective, rule from a single center is about sixty years (1325-88).

²⁴ Kennedy, *The Court of the Caliphs*, 214.

²⁵ Mu'tasim then moved the capital from Baghdad to Samarra: "The new regime was established in Samarra, and the new army and the bureaucracy were moved there. Mu'tasim was now master in his own capital, surrounded by the troops who owed everything to him. Baghdad with its turbulent inhabitants and vigorous commercial life, was well out of the way. He could not have realized how this isolation in the middle of his troops would make Samarra a prison and ultimately a death trap for his successors." Ibid.

adoption and practice of Ancient Persian conceptions of statecraft. It is perhaps no coincidence that the Turks identified more readily with Ancient Persian precepts than with those maintained by their former Arab masters. At any rate, the significance of Turkish assimilation into a Persianized culture of power was that before they ventured into the subcontinent they, like the states of the subcontinent, exercised power in the ideocratic and arbitrary manner common to continental bureaucratic empires.

The core organizational principle of the Delhi Sultanate was the universal proprietorship of the sovereign. The test of a sultan's strength was his ability to enforce his universal proprietorship. Ghiyathudin Balban, through a policy of terror and confiscation, brought his fellow slaves under control. Allaudin Khalji confiscated the properties of his predecessors' servants, converted their revenue assignments or *iqtas* into crown land, and confiscated all privately-held property, inclusive of charitable endowments and lands granted as gifts.²⁶ Similar acts of mass-confiscation characterized the reigns of later sultans. The inherited insularity, apathy, and atomization of Indian society helped the sultans establish their arbitrary rule. Village headmen became the sultan's highway watchmen or were often forbidden from possessing arms or horses, kept in a sub-political role, and subject to beatings and confiscations. Property in the form of capital was similarly under the ruler's control. Leading merchants were compelled to live in the vicinity of the capital. A network of market superintendents, reporters, and spies regulated prices and profits, with violators punished mercilessly with torture and confiscation. The sultan owned his own manufacturing establishments that converted taxpayers' money into luxuries, such as robes of honor (hundreds of thousands of which

²⁶ Peter Jackson, *The Delhi Sultanate: A Political and Military History* (Cambridge: Cambridge University Press, 1999), 241.

were doled out each year), handicrafts, luxuries, and weapons. Merchants required official permits, licenses, and passports, and existed at the sufferance of the sultan and his servants.

The sheer size of the Delhi Sultanate meant that the ruler had to rely upon appointed servants to do his bidding. These servants, be they judges, tax collectors, military governors, or city magistrates, were granted *iqtas*, or transferable revenue assignments in land, in exchange for their services. The central government comprised a royal council, ministries for revenue, local administration and communications, war, and markets, plus departments for justice, agriculture, river navigation, canals, land clearance, subsidies, and the navy. The sultanate was divided into provinces, divisions, districts, villages, and urban areas, each administered through a hierarchy of appointed servants or local notables dependent on the sultan's favor.

Like Achaemenid Persia, the Delhi Sultanate made extensive use of slaves to fill administrative and military posts. Indeed, the first sultans were slaves themselves. In the early thirteenth century the sultan owned about fifty thousand slaves. By the late fourteenth century the sultan owned nearly two hundred thousand slaves. In addition to these slaves thousands of migrants from Persia, Central Asia, and the Arab world poured into the subcontinent seeking employment in the sultan's service. It was not uncommon for half or more of a sultan's high officials to have been born outside the subcontinent. Within the subcontinent, the sultans sometimes elevated people of meager background to high offices. Slaves, being the property of the sultan, were often imported from abroad and also of humble origins, and so owed everything to their master. Moreover, as the slaves were equal to each other they sought to preserve that equality even if it entailed

perpetuating their own servitude. Foreigners, often well-educated and from families with traditions of state service, were driven into the subcontinent by the Mongol advance or lured by the prospect of enrichment. Either way, they depended on the sultan for survival in their adopted home. The elevation of lower class or caste locals similarly guaranteed their dependence upon the ruler as it alienated them from their own groups and antagonized those with better pedigrees. The greatest advantage of this system was that the sultan's arbitrary power, if wielded effectively, could rapidly and without encumbrance operate through a bureaucratic elite that was talented, hardworking, and unquestioningly obedient. The greatest disadvantage was that the bureaucratic class was highly heterogeneous, atomized, lacked moral relationships, and, in the absence of a strong ruler capable of inspiring fear, simply fell apart into thousands of rival petty estates.

In order to maintain control of his estate the sultans had two formidable weapons at their disposal – the army and spies. As with the Mauryas, the size of the Delhi Sultanate's armies under competent rulers is estimated between three hundred thousand and six hundred thousand. Even if we accept the lower estimate, the cost of maintaining such a large standing armed force on fixed salaries placed immense strain on the economy. Like the Mauryas, the sultans used a combination of economic controls and regulations to keep prices and shortages in check. Unlike the Mauryas, the sultans did not appoint a permanent army chief and, instead, performed that role personally. Repeated failures of dynastic succession meant the territories of the Delhi Sultanate had to be re-conquered every two generations. When not engaged in re-conquest, the army expanded the frontiers of the sultanate and quelled internal rebellions.

Spies and reporters were used for a diverse range of functions. The most important was providing the sultan with an independent source of information. Regular reports coordinated by the postmaster general, were delivered through an impressive courier-relay system.²⁷ Ibn Battuta recounts how at Multan his party stopped for a routine inspection by the intelligence service.²⁸ Normally, the journey from Multan to Delhi took "fifty days march but when the intelligence officers write to the sultan...the letter reaches him in five days' by the postal service."²⁹ Besides regular reports, spies were employed in the households of the sultan's closest relations and senior-most officers, given undercover assignments in the administration and military, investigated the full extent of officers' assets, pried into household expenses of ordinary subjects, watched markets, and even wandered as beggars and mendicants. There prevailed an "atmosphere of perpetual suspicion and distrust" in which "spies and reporters poked their noses into everyone's private business."³⁰

The Delhi Sultanate was an eminently ideocratic enterprise. The ruler styled himself the Shadow of God and disobedience to him was equated with disobedience of the divine will. The punishment for speaking against the sultan was death. An official priesthood and bureaucratic intelligentsia paid from public funds and grants in land,

²⁷ This system, of Ancient Persian origin, was extensively employed by the Arab imperial states. The second Abbasid ruler, Mansur, "relied heavily on an organization called the *barid*. This is usually translated as 'post', but though it did carry official correspondence its remit ran much wider. The agents of the *barid* operated in every city and district a sort of alternative government structure, reporting directly to the caliphs on the behaviour of the governor, the *qadi* or judge and such mundane but important matters as the movement of prices of essential commodities." Kennedy, *The Court of the Caliphs*, 15. When Harun al Rashid, the Abbasid ruler immortalized in the *Arabian Nights*, died in 809 at Tus, some 1900 kilometers from the capital, Baghdad, the news was transmitted through the *barid* and arrived at the imperial palace in eleven or twelve days. *Ibid.*, 85.

²⁸ Ibn Battuta, *Travels in Asia and Africa 1325-54* (London: Routledge and Keagan Paul, 1929; reprint Lahore: Services Book Club, 1985), 181.

²⁹ *Ibid.*

³⁰ K. A. Nizami, ed., *Politics and Society During the Early Medieval Period: Collected Works of Professor Mohammed Habib*, vol 2 (New Delhi: Peoples Publishing House, 1981), 369-70.

dispersed across a country with an overwhelming Hindu majority, and thus abjectly dependent upon the sultan, provided him with adulation and the illusion of legitimacy. From the class of Muslim clerics and scholars were drawn the judicial officers (*qazis*) responsible for settling disputes unrelated to the administration. The sultan appointed the *qazis* and their decisions could be appealed to the sultan who changed, countermanded, or confirmed them as he saw fit. The sultan personally dispensed justice, as did his governors, according to their caprice. Many sultans pursued a policy of destroying Hindu temples and converting them into mosques, albeit with varied zeal. The idea was to humiliate the gods of the Hindus and so demonstrate that divinity was on the side of the sultans and their loyal servants. Elaborate and lavish court ceremonial, on the Ancient Persian pattern, complete with prostration and ground kissing, served to dramatize the distance between the ruler and his subjects, "was highly artificial and reveals anything but a virile and healthy environment."³¹ By the mid-fourteenth century, Sufi orders were brought under the patronage and control of the state.

The Delhi Sultanate was a continental bureaucratic empire that periodically rivaled in extent and powers its Gupta and Maurya predecessors. The sultan was the universal proprietor, sanctioned by divinity, and operated through a hierarchy of slaves and servants. So long as the sultan was intelligent enough to wield the instruments at his disposal effectively his arbitrary sway prevailed. As soon as the ruler proved incompetent or indecisive he would be overthrown. If the period of disorder did not quickly produce a competent successor the central administration, which "was practically the only unifying

³¹ K. M. Ashraf, *Life and Conditions of the People of Hindustan* (New Delhi: Munshiram Manoharlal, 1959), 77.

force in the country,"³² collapsed and anarchy ensued. The sultan ruled only so long as he was successful:

...one little disaster, once chance defeat, and the whole fabric of the state broke down. Under such a scheme of government, the masses of people, already living in intellectual isolation, became ever more indifferent to the fortunes of their monarch and the political destiny of their kingdom.³³

The culture of power of the Delhi Sultanate manifested the same arbitrariness, bureaucratization, militarism, lack of trust within the ruling class, ideocratic delusion, perpetual surveillance, and contempt for private property as the *Arthashastra* State. The differences were in the formal organization of the state, the dominant idiom, lifestyle, and rhetoric used by the rulers to convince themselves and others of their perfection. Like the Hindu rulers the sultans ultimately failed to heed Kautilya's warning of the presence of great outsiders. In 1526, a force of Chinggezi Turks and disaffected Afghans under the leadership of Babur, including blood relatives of the incumbent sultan whose pharonic pretensions dwarfed his capabilities, defeated the decaying Delhi Sultanate. This inaugurated the Timurid, or, as it is more popularly known, the Mughal, empire.³⁴

1.3 Continental Bureaucratic Empires and the Culture of Power of the Subcontinent: The Timurid Empire, 1526-1707

Though established in 1526, it took the Timurid Empire thirty-four years to emerge as the largest and most powerful of about twenty states in the subcontinent. From 1564 to 1591 the Indo-Gangetic plain was brought under Timurid rule and by the first decade of the seventeenth century the empire pressed with some success into the Deccan

³² Ibid., 2.

³³ Ibid., 36.

³⁴ Babur was a descendent of Amir Taimur, who led the second wave of Mongol invasions. These invasions, in the late fourteenth and early fifteenth centuries, devastated the Muslim world. In 1398-99, The Timurid armies conquered and sacked Delhi, a blow from which the sultanate, then undergoing dynastic failure, never truly recovered. After Taimur's death in 1405, his empire disintegrated into hundreds of petty despotisms.

and peninsular India. When Akbar the Great (1556-1605) died, the Timurid Empire stretched from Kabul to Bengal and from Kashmir to the Deccan. Akbar's three great successors, Jahangir, Shahjahan, and Aurungzeb, provided a century of strong governments.³⁵

In the classical tradition of continental bureaucratic empires the basic principle of the Timurid dominion was that the entire country was considered the personal estate of the ruler.³⁶ The sheer size of the estate meant that if the ruler wished to manage it without sharing power he would have to rely upon an imperial bureaucracy distributed across administrative subunits. These subunits, in the early 1600s comprised twelve provinces, one hundred divisions, and about three thousand districts. The imperial bureaucracy of the Timurids were known as *mansabdars* or office holders, and the system through which they were recruited, promoted, transferred, and remunerated, was known as *mansabdari*. The *mansabdars* were organized into a hierarchy of grades starting at twenty and going up to seven or ten thousand. Remuneration consisted of salaries and revenue assignments in land or *jagirs*. Given the rank of the officer, he maintained a specified number of heavy cavalry.

The wealth and privileges of this warrior-bureaucratic elite were almost without parallel. In 1647, when the annual revenue of the empire stood at two hundred and twenty

³⁵ Akbar can be credited with leading the Timurids to paramount power status in the subcontinent. Ishtiaq Husain Qureshi, *Akbar: The Architect of the Mughul Empire* (Karachi: Ma'aref Limited, 1978). More recent research into the "documentary evidence" has "only tended to confirm and underline the standard propositions about the elements of centralization and systematization" in the Timurid Empire. M. Athar Ali, *Mughul India: Studies in Polity, Ideas, Society and Culture* (New Delhi: Oxford University Press, 2007), 87-8.

³⁶ During the reign of Humayun (1530-56) the Timurids experimented with sharing different provinces amongst the royal princes instead of plunging into a fratricidal civil war. The consequences for the Timurid dominion were almost fatal as dissension between the brothers crippled the state and led to humiliation and exile at the hands of the Afghan Sher Shah Suri (1540-45). Ultimately, Humayun had to defeat his brothers and lead a re-conquest of northern India, which was, at the time of his death in 1556, still far from complete.

million rupees, the four hundred and forty-five *mansabdars* of grade five hundred and above accounted for sixty-one percent of total revenue, while the sixty-eight princes and nobles at the top accounted for some thirty-seven percent of total revenues.³⁷ When Yamin-ud-Daula, a prominent provincial noble based in Lahore, died in November 1641 and imperial officers took account of his possessions, his estate was assessed at twenty-five million rupees³⁸ and included, among other things, three million rupees in jewels, twelve and a half million rupees in cash, and three million rupees in jewels.³⁹ At that time, the Safavid Shah of Iran had an annual income of twenty-four million rupees.⁴⁰ Great wealth was also the source of great insecurity for the emperor was "himself the heir of all the *Omrahs*, or lords, and likewise of the *Mansabdars*, or inferior lords, who are in his pay."⁴¹ When an officer fell from royal favor or died his possessions were seized by the emperor's agents and confiscated. This practice was the logical outcome of the ruler being the "proprietor of every acre of land in the kingdom, excepting, perhaps, some houses and gardens which he sometimes permits his subjects to buy, sell, and otherwise dispense of, among themselves."⁴² As transfers were frequent, and confiscation assumed, imperial officers extorted "as much as they could from the peasantry without any concern for the economic future of the areas temporarily under their control."⁴³

³⁷ Irfan Habib, *Essays in Indian History: Towards a Marxist Perspective* (New Delhi: Tulika, 1995), 97.

³⁸ Standard silver currency units.

³⁹ Inayat Khan, *Shahjahan-nama*, trans. A. R. Fuller, eds., W. Begley and Z. A. Desai (Delhi: Oxford University Press, 1990), 282.

⁴⁰ *Ibid.*, 232.

⁴¹ François Bernier, *Travels in the Mogul Empire: AD 1656-1668*, trans. Irving Brock, revised and improved edition, Archibald Constable (London: Archibald Constable and Company, 1891; reprint, Karachi: Indus Publications, n.d.), 204.

⁴² *Ibid.*

⁴³ Tapan Raychaudhuri and Irfan Habib, eds., *The Cambridge Economic History of India*, vol 1, c1200 to c1750 (Cambridge: Cambridge University Press, 1982), 173.

Local notables, such as *zamindars*, *chaudaries*, and even Rajput princes, were confirmed in their possession of land, served either as *mansabdars* or under the direction of imperial officers and could be expropriated if they misbehaved. Merchants operated under numerous restrictions, were subject to arbitrary confiscation, and city magistrates appointed guild leaders. To protect themselves and secure better terms, many merchants sought the patronage of imperial officers in exchange for sharing profits. This protection racket was a lucrative source of illegal income for the warrior-bureaucratic ruling class who abused its powers to amass great trading fortunes.⁴⁴

Controlling imperial servants and through them the country was no easy task notwithstanding the apathy and atomization of society. The Timurids relied principally on their military machine to maintain order and collect taxes, one of the advantages of the *mansabdari* system being that it allowed for the dispersal and flexible use of military power. The size of the military establishment is, however, open to question. If we go by Abul Fazl's figures, the total numerical strength of the military, including the heavy cavalry, musketeers, royal guard, and auxiliaries maintained by local notables, comes to an incredible four million four hundred thousand.⁴⁵ Based upon these figures and the total revenue demands of the Timurid Empire, which amounted to between one-third and half of the Gross National Product, as many as twenty-six million people may have depended directly and indirectly upon the military for their livelihood.⁴⁶ In the royal stables, for instance, there were seventeen categories of servants.⁴⁷ Another estimate is that by the

⁴⁴ M. Athar Ali, *The Mughal Nobility Under Aurungzeb* (New Delhi: Asia Publishing House, 1970), 155-6.

⁴⁵ Abul Fazl Allami, *A'in-I Akbari*, trans. H. Blochmann (Calcutta: Calcutta Madrassah, 1873; reprint, Lahore: Sang-e-Meel Publications, 2003), 225.

⁴⁶ Raychaudhuri, *The Cambridge Economic History of India*, vol 1, *c1200 to c1750*, 179. The total revenues are estimated at 130 million rupees under Akbar, 220 million rupees under Shahjahan, and 380 million rupees during the later half of Aurungzeb's reign.

⁴⁷ *Ibid.*, 181.

mid-seventeenth century the total number of paid soldiers was about one million.⁴⁸ Of these soldiers the emperor kept enough of the best troops in his own hands and those of the royal princes, and retained the most important *mansabdars* at the imperial court. The general trend was that so long as the emperor was strong, rebellions by local notables, imperial servants, or disgruntled peasants, were crushed. Logic and a measure of enlightened self-interest dictated that the Timurid warrior-bureaucratic elite unite against their arbitrary overlord and gain a measure of personal and collective security.

This eventuality was prevented by the heterogeneous and alien nature of a ruling class that comprised Turks, Mongols, Uzbeks, Persians, Arabs, Rajputs, Marhattas, Afghans, a smattering of Indian Muslims and a few exceptional Hindus. Turks, Persians and Afghans accounted for sixty percent of the imperial higher bureaucracy between 1595 and 1678, Rajputs thirteen percent and Indian Muslims thirteen percent.⁴⁹ Many of the imperial officers were of mean origins, had been raised quite suddenly to high office, and were thus completely dependent on royal favor. Many were foreigners and lacked knowledge of local conditions. Even after experience was acquired the system of regular transfers combined with the imperial bureaucracy's preference for living in the cities and sending agents and soldiers to collect revenue from *jagirs*, a process that can be described ineloquently but effectively as absentee-parasitic-bureaucratic-landlordism, ensured that the rulers remained strangers to the land they governed and looked down upon their subjects as intrinsically inferior creatures.⁵⁰ Intense rivalries between ethnic and religious

⁴⁸ Abraham Eraly, *The Last Spring: The Lives and Times of the Great Mughals* (New Delhi: Viking, 1997), 815.

⁴⁹ Athar Ali, *Mughul India*, 68.

⁵⁰ This point is driven home by Yoginder Sikand. He argues that the local converts to Islam were regarded as *ajlaf* by the Muslim elite, or *ashraf*, in pre-British India. Until the decline of Turco-Persian imperial power in the eighteenth century the *ashraf* didn't even consider it possible for the "Natives" to become *real*

groups meant that the rebellion or disobedience of one noble, or group, provided others the opportunity to gain their master's favor at the upstart's expense. Even a moderately intelligent ruler could manipulate the calculus of fear and greed to keep his demographically diverse apparatus in line. However much the imperial servants feared their master, they knew that if one of their own seized power he would assert his universal proprietorship and redistribute assets amongst his favorites.⁵¹

In 1560, for instance, when word got out that Akbar was upset with his guardian and tutor, Bairam Khan, "all men turned their backs upon him and their faces towards the Emperor" in "the hope of receiving dignities and *jagirs* suitable to their condition."⁵² About twenty years later, Akbar, having raised Khawja Mansur, a former clerk in the imperial perfumery department, to the post of *diwan* (revenue minister),⁵³ threw him in jail upon receiving complaints of his pettiness and obstructionism.⁵⁴ After a while, Akbar relented and restored Khwaja Mansur to his ministerial post. Soon, letters fell into Akbar's hands indicating Khwaja Mansur was disloyal. His anger fanned by nobles dissatisfied with Khwaja Mansur, Akbar ordered his arrest and execution, which were immediately carried out. After the execution, Akbar decided to have his "confidential

Muslims. Yoginder Sikand, *The Origins and Development of the Tablighi-Jama'at, 1920-2000: A Cross-country Comparative Study* (New Delhi: Orient Longman, 2002).

⁵¹ Ibn Hasan notes that "In the absence of any constitutional body or permanent authority in the state to control and supervise the administration, the only guarantee to avert, check, or overcome the dangers to the Empire, and to ensure smooth working of the administration, was the vigilance of the ruling monarch." Ibn Hasan, *The Central Structure of the Mughal Empire and its Practical Working up to the Year 1657* (Karachi: Oxford University Press, 1967), 85.

⁵² Nizam-ud-din Ahmed, *Tabakat-i-Akbari*, trans. Sir H. M. Elliot (n.p. 1871 reprint; Lahore: Sind Sagar Academy, 1975), Book I, 86.

⁵³ At the provincial level two officers of equal importance, the provincial revenue ministers and provincial governors, headed the financial administration and order apparatus, respectively. Both officers were often rivals and reported upon each other to the emperor.

⁵⁴ Nizam-ud-din Ahmed, *Tabakat-i-Akbari*, Book II, 89.

servants" investigate the letters, which were proved to be forgeries.⁵⁵ Akbar "regretted the execution" but didn't pursue the matter further.⁵⁶

Another vital instrument of control were the "confidential servants" or reporters, spies, informants, and secret operatives. Each district had its news-writer whose job it was to report everything of note that occurred in a district. At the center, fourteen "zealous, experienced, and impartial" imperial secretaries summarized reports, prepared accounts, handled routine correspondence, and performed other vital paper work.⁵⁷ Away from the emperor's watchful eye, in the provinces and districts, the news-writers often opted for mutually beneficial collusion and concealment with local officers.⁵⁸ One can imagine that diligent reporters were unpopular with the local governors and given the latter's military powers, exposed to considerable risks.

Spies and informers were thus necessary for providing the emperor with more reliable information. These agents were deployed to check the household expenditures of royal subjects, infiltrate the harem of nobles and report political and personal information, spy on the royal princes, check accounts, investigate cases, prevent rebellions or at least provide early warning, and report on military efficiency. The postmaster general acted as the head of the formal and informal system of correspondence carried by a courier-relay system. To be on the safe side, the Timurids employed spies to spy on other spies, known as *harkaras*. Pervasive suspicion meant ordinary subjects and state servants resorted to concealment and theft as and when

⁵⁵ Ibid., 96.

⁵⁶ Ibid.

⁵⁷ "Keeping records is an excellent thing for a government; it is even necessary for every rank of society. Though a trace of this office may have existed in ancient times, its higher objects were but recognized in the present reign." Abul Fazl Allami, *A'in-I Akbari*, trans. H. Blochmann (Calcutta: Calcutta Madrasah, 1873; reprint, Lahore: Sang-e-Meel Publications, 2003), 245.

⁵⁸ Bernier, *Travels in the Mogul Empire: AD 1656-1668*, 231.

possible. The former lived in studied indigence and buried their valuables in the ground and in wells. The latter spent lavishly and secretly hoarded ill-gotten wealth knowing that sooner or later it would be investigated and the emperor would confiscate the uncovered amount. So, the logic was, to steal so much that even if most assets were confiscated enough was left to maintain the family until another one of them became an imperial servant. Given the Timurid preference for fair-skinned foreigners, however, chances of imperial employment declined with each succeeding generation.

The ideocratic complex of the Timurid Empire consisted of an official priesthood and a bureaucratic intelligentsia. The state paid subsidies to religious establishments, regular stipends to religious scholars, and employed the Muslim priestly class as judges much as the Delhi Sultanate did. The ruler was divinely sanctioned and so to oppose him was blasphemous and treasonous. Although great attention has been paid to Akbar's infallibility decree and creation of a royal religious cult based on emperor and sun worship (*Din-i-Ilahi*), taking imperial rhetoric seriously obscures the underlying arbitrary power of the sovereign. There was nothing new in the infallibility decree extracted as it was from a servile, cynical, and worldly official priesthood. Since ancient times the rulers of the subcontinent assumed the mantle of infallibility. The creation of a new religious cult or legitimating ideology was also not without precedent. Alauddin Khalji and Mohammed bin Tughluq contemplated founding religions. In ancient times, Ashoka changed the official religion, which subsequently alternated between Buddhism and Hinduism, depending on the ruler's personal inclination. That Akbar chose not to spread his religious cult beyond the military and bureaucratic elite does not alter the fact that, ultimately, it was his choice.

Akbar's successors drifted towards an increasingly orthodox ideocratic complex characterized by the wanton desecration of hundreds of Hindu temples, the culmination of this process was reached under the last great ruler, Aurungzeb. Aurungzeb, like his predecessors, used religion for political ends and to cloak himself in an aura of divinity and infallibility. Part of this policy was to employ religious scholars and judges, normally at the base of the Timurid power pyramid, in financial and administrative posts. This led the lay nobles to bemoan the emperor's reliance on abjectly servile "hypocritical mystics and empty-headed scholars."⁵⁹ Much like the consultants and development experts that clog the arteries and numb the minds of continental bureaucratic empires in the developing world today, "these men are selling their knowledge and manners for the company of kings" and "to rely on them was," and is, "neither in accordance with the divinely prescribed path, nor suited to the ways of the world."⁶⁰ Indeed, "these men are robbers in every way" and "(As the saying is), the finances are given over to the Qazi and the Qazi is satisfied only with bribes."⁶¹ Lavish court ceremonial involved the circulation of tens of millions of rupees of gifts every year, and emphasized the ruler's universal proprietorship even as it legitimized bribery.⁶²

Society's response to the Timurid imperial machine was even greater insularity and apathy. As the Timurid Empire extracted more resources out of a stagnant economic base in pursuit of military glory and monumental extravagance, flight from the land, concealment, and rebellions became more common. By the 1670s and 1680s there were

⁵⁹ Athar Ali, *The Mughal Nobility Under Aurungzeb*, 99.

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² "In Asia, the great are never approached empty-handed. When I had the honour to kiss the garment of the great Mogol *Aurung-zebe* (Ornament of the Throne), I presented him with eight *roupies*, as a mark of respect; and I offered a knife-case, a fork and a pen-knife mounted in amber to the illustrious *Fazal-Khan*...a Minister charged with the weightiest concerns...on whose decision depended the amount of my salary as a physician." Bernier, *Travels in the Mogul Empire: AD 1656-1668*, 200.

indications that order in the vicinity of Delhi and Agra had begun to break down. The atomization of society meant that when the external force holding the country together waned the results were anarchy, bloodshed and spiraling arbitrariness and confusion. The end came swiftly for the Timurid Empire. After Aurungzeb's death in 1707 the succession of competent rulers failed. Wars of succession and dislocation at the center caused fragmentation, spread anarchy, and invited foreign invasions. By 1721 the central government ceased to be effective. In the 1730s and 1740s local officers carved out kingdoms for themselves. In 1764, the last vestiges of Timurid power vanished with the British victory at Buxar. The dynasty survived as British dependents until 1857 though its effective power barely encompassed the palace grounds at Delhi.

The Timurid continental bureaucratic empire is matched only by the Mauryas in terms of territorial extent and centralization. The rulers of this empire were the servants of the emperor, organized into a bureaucratic hierarchy recruited, transferred, and liquidated at the ruler's will. The ruler was also the universal proprietor and legitimized by his preferred interpretation of divinity. The bureaucratic classes also served as the academic elite while scholars and priests depended on imperial patronage. Within the Timurid omni-estate all wealth, status, and position, emanated from the favor of the ruler and his servants. To keep his flocks and shepherds in line, the emperor employed military coercion and espionage on a vast scale. The Timurid Empire, as its megalithic textual remains indicate, was essentially a government that operated by correspondence, remote decision, and, so long as the ruler was capable, outward respect for complex bureaucratic routine.

The arbitrary powers of the sovereign preempted moral relationships from developing even within the ruling family. The emperors' brothers, sons, and relations, revolted repeatedly. Akbar's son and successor, Jahangir, revolted and had Abul Fazl murdered. Jahangir's son, Khusrau, revolted against his father, but failed, was imprisoned, and three hundred of his partisans were impaled outside Lahore. Shahjahan's third son, Aurungzeb, who, in a series of campaigns, defeated and killed his fellow royal princes, imprisoned the aging emperor. Imprisonment and exile were the fates of Aurungzeb's own sons. In 1707, upon Aurungzeb's death, a war of succession failed to produce a competent ruler capable of living for several decades and the heterogeneous and conspiratorial nature of the imperial warrior-bureaucracy combined with the apathy of the ruled, caused the empire to fragment into hundreds of petty bureaucratic estates, exponentially increasing the levels of arbitrariness, mismanagement, corruption and insecurity. Eventually, out of the maelstrom of wars of Timurid succession a new power willing and able to unify the subcontinent emerged.

This new power was Britain, or, more precisely, the British East India Company. The British, possessed a culture of power anomalous even by European standards, that found formal expression in the State of Laws. After the British conquest of Bengal in 1757 it remained to be seen if the British culture of power so admired by Enlightenment thinkers such as Voltaire and Montesquieu, could reform the ideocratic and arbitrary culture of power of the subcontinent. The State of Laws and the continental bureaucratic empire were set to confront each other. Far more was at stake in this struggle than the future of India or the validity of philosophical liberalism. At stake was the idea of the alterability of the human condition in relation to the exercise of state power so central to

the Enlightenment and the Revolution. After thousands of years history was about to offer a choice.

1.3 The Anglo-Saxon Anomaly and the State of Laws

The environmental setting in which the State of Laws evolved was relatively poor, isolated, and quite literally, at the margins of civilization. Britain lacked agricultural resources, and it was not until the Roman conquest of the first century AD that civilization reached its shores. Till the Roman withdrawal three centuries later, Britain was governed as an imperial province. After the barbarian invasions of the fourth and fifth centuries, which brought the Anglo-Saxons to Britain from Germany, the island was overrun and descended into chaos. It took more than four centuries and the threat of Viking attack for the Anglo-Saxon nobles to realize the necessity of some form of central leadership. Under Alfred the Great (871-99) the country was governed with the advice and consent of the *witena gemot* (council of the wise) and the *folk moot* (semiannual gathering of freemen).

The successful Norman invasion of England in 1066 resulted in the establishment of military feudalism and a strong monarchy. The Norman rulers dispersed the Anglo-Saxon aristocracy and replaced it with nobles from Normandy. These nobles were considered tenants by the ruler and owed him military service which, if not properly fulfilled, could result in the confiscation of their lands. An important feature of the Norman system that militated against the ruler's universal proprietorship was that the estates were normally held for life and were inherited by the eldest son. The Norman nobility also maintained order, dispensed justice, and collected taxes, from their estates. Over time, the Norman nobility developed a strong proprietary interest, made long-term

investments in developing trading centers and towns on their own initiative, secured a local power base, and, through marriage and enculturation, ceased to think of themselves as foreigners. Royal focus, distracted by continental entanglements ranging from relations with the French monarchy to the Crusades, failed to fathom accurately the growing power of what soon became an Anglo-Norman aristocracy.

The attempts made at circumventing the power of the aristocracy by rulers like Henry II (1154-1189) actually decreased their own arbitrary powers over the long-term. For example, Henry II constituted royal courts that administered the Common Law assisted by juries of twelve freemen. His objective was to draw litigants away from the manorial courts. The Common Law judiciary, however, became one of the champions of a limited monarchy. Later attempts to manipulate judicial power in order to enhance royal control, such as the Nottingham Declaration and crisis precipitated by Richard II (1377-1399), the High Commission employed by James I (1603-1625) and the Court of the Star Chamber used by Charles I (1625-1649) to enhance royal power by intervening against aristocrats in their disputes with peasants, ended in defeat for the monarch. Indeed, royal efforts to use the judiciary were an admission of executive weakness and indicated the absence of centralized means of administrative control.

If circumvention proved futile, confrontation brought disaster. Practically all attempts by the executive to impose centralized control failed and actually provoked important groups to establish autonomous institutions, most famously the Lords and the Commons, to deter further efforts. In 1215, for instance, King John tried to compel his nobles to join a royal expedition to re-conquer Normandy, which was lost to France in 1204. In order to finance the expedition King John vigorously collected taxes, imposed

finances, and abused his powers of escheat and wardship. He also relied on favorites from Normandy and raised a mercenary army which, complemented by feudal levies, was to invade Normandy. The aristocracy, wary of the king's grasping and arbitrary ways, and fearful of what might happen if the army were turned upon them, rebelled. They managed to catch the king off-guard and extracted from him the Great Charter (*Magna Charta*) of 1215.

This charter limited the powers of kings in important areas. The king could not interfere in property-related matters. The appointment of local officials was formally entrusted to the local governments dominated by the aristocracy. Free subjects could not be arbitrarily thrown in jail and had the right to trial by jury. Additional taxes and customs could not be levied on towns and cities and their privileges and exemptions were confirmed. The king could not demand additional funds beyond those derived from the royal lands without the consent of the lords and the higher clergy. Mercenaries were to be disbanded and foreign favorites sent home. The state, in other words, was not the personal estate of the ruler. Lawful opposition was possible, even expected, should the king try to govern the country as his personal estate. The law "was an independent power," an autonomous institution, to which the ruler was accountable.⁶³

Between 1215 and 1688, the monarchy, the Church, the Lords, the Commons and the judiciary, engaged in a complex struggle for power. While the alignment of these institutions changed, broadly speaking, the parliamentary and judicial institutions overcame the executive and ecclesiastical combination. At a cognitive level the State of Laws rested on the twin realizations that "There is no liberty, if the judiciary power be

⁶³ Simon Schama, *A History of Britain: At the Edge of the World? 3000 BC- AD 1603* (London: BBC Worldwide Ltd., 2000), 162.

not separated from the legislative and executive"⁶⁴ and "If the legislative power was to settle the subsidies, not from year to year, but forever, it would run the risk of losing its liberty, because the executive power would no longer be dependant."⁶⁵

Our survey thus far has indicated that the broad direction of historical development favored the emergence of continental bureaucratic empires. Variations in organization, sources of power, and social responses reflected differences in degree. The main characteristics were, and are, nearly everywhere the same. A fundamentally different form of the state and with it a very different culture of power did emerge on the margins of the civilized world. This state was the State of Laws. The culture of power of this State of Laws was characterized by the existence of lawful and effective means of defying the sovereign, the prevalence of autonomous institutions, the rule of law, and private property. The soil in which this anomaly grew was England and, eventually, her overseas dominions of settlement. Alexis de Tocqueville, a contemporary of the Marquis de Custine⁶⁶ who traveled in the opposite direction to the United States found,

The English colonies – and that was one of the main reasons for their prosperity – have always enjoyed more internal freedom and political independence than those of other nations; nowhere was this principle of liberty applied more completely than in the states of New England.⁶⁷

... All the general principles on which modern constitutions rest, principles which most Europeans in the seventeenth century scarcely understood and whose dominance in Great Britain was then far from complete, are recognized and given authority by the laws of New England; the participation of the people in public affairs, the free voting of taxes, the responsibility of government officials,

⁶⁴ Charles de Secondat, *The Spirit of Laws* (New York: Prometheus Books, 2002), 152.

⁶⁵ *Ibid.*, 160.

⁶⁶ "Tocqueville, believing the strength of American democracy to lie in its local institutions, traveled almost exclusively in the provinces, greatly neglected the organs of the central authority, visited Washington only briefly, towards the end of his journey, and with only perfunctory interest. Custine, coming to a country where power was centralized as nowhere else in the Christian world, quite properly and naturally confined his attention largely to the capital city, the court, and the central apparatus of government." George F. Kennan, *The Marquis de Custine and his 'Russia in 1839'* (London: Hutchinson, 1972), 19.

⁶⁷ Alexis de Tocqueville, *Democracy in America*, trans. George Lawrence, ed., J. P. Mayer (New York: HarperCollins, 2000), 39.

individual freedom, and trial by jury – all these things were established without question and with practical effect.⁶⁸

Each of the laws and mores identified by de Tocqueville were brought over from England. In England, however, aristocratic and class privileges placed limits on the representative principle. In the dominions of settlement where no such feudal undergrowth existed the result was faster movement towards greater representation and self-government. It was not until the twentieth century that England made the final transition from aristocratic liberalism to representative democracy as practiced in its dominions of settlement.

Practically all notions of constitutionalism, civil liberties, and the rule of law, are derived from the historical experience of governance of the English and their progeny. Through the medium of the British Empire aspects of the State of Laws were exported to many parts of the world. British prosperity and military superiority were admired and envied by many in the bureaucratic states of continental Europe. Some of these continental bureaucratic empires attempted sincerely but with limited success, like France and liberal-conservative Italy in the nineteenth century, to incorporate some of the habits and practices associated with the State of Laws. Others, like Bismarck's Germany, were cynical and created a representative façade to obscure despotism. Some states, like Russia, openly held the State of Laws in contempt and resisted all attempts to share power with the czar. One of the greatest challenges to the State of Laws as a historical phenomenon came in 1757 with the advent of the British Empire in India after the East India Company defeated Nawab Sirajud Daula of Bengal at the Battle of Plassey and established indirect rule through puppets. India, however, had long been governed by

⁶⁸ Ibid., 43.

continental bureaucratic empires. It was also too densely populated to become a dominion of settlement along the lines of Canada and Australia and in spite of domestic pressure the British authorities did not encourage emigration to India as a matter of policy.

1.4 Continental Bureaucratic Empires and the Culture of Power of the Subcontinent: The British Empire in India, 1757-1947

As the ascent of the British Empire in India through craft and coercion to supremacy has already been dealt with exhaustively in other sources, we limit our survey to those indicators most relevant to the continental bureaucratic empires and their ideocratic and arbitrary cultures of power. It was not inevitable that the remorselessly avaricious rule of the East India Company in Bengal would be brought under parliamentary regulation. The constitutional problem with such intervention, the horror stories and enriched "nabobs" emanating from Bengal aside, was that the Company was a chartered body. Consequently, the Company had a lawful sphere of autonomy ceded to it by the sovereign that could not be arbitrarily interfered with. Even as evidence mounted of criminal incompetence and rampant corruption between the conquest of Bengal in 1757 and the first regulation acts a generation later, the Company's chartered status protected it. The British State of Laws was full of chartered bodies such as the hundreds of privately owned turnpike trusts that built and operated the country's road system to the City of London. Parliamentary power and legitimacy originated in the Great Charter of 1215 that was reissued thirty-eight times. An attack on the lawful autonomy of the Company would rouse other chartered bodies to rally to its defense to protect a legal principle from which, arguably, their liberties and that of the country at large, were

derived. Fortunately for the Company's Indian subjects, the costs of fighting wars combined with manifest administrative ineptitude, brought the Company to the verge of bankruptcy. In 1772, the Company's liabilities, at nine million pounds, far outweighed its assets, estimated at five million pounds. Parliamentary intervention took place in the context of the Company's request for public funds to avert collapse. In exchange for a bail-out, the government received regulatory powers that created a governor-general, a council of officials appointed by the British cabinet, and a reduction of the annual dividend from eight to six percent.

Under the new framework Warren Hastings, a company official with decades of experience in India, became the first governor-general (1774-85). Hastings, an aspiring *chakravartin*, was primarily concerned with making the Indian tradition of arbitrary rule effective and expanding the Company's territories. Like other Indian rulers, he amassed a considerable personal fortune, patronized scholars, and used whatever means necessary, including extortion, to maximize his powers. His relationship with his council was, at best, ambivalent, and very often hostile. With the Supreme Court at Calcutta, constituted by the Bengal Judicature Act of 1781, and initially headed by his class fellow and friend, Justice Impey, Hastings had a better relationship. Hastings's tenure was important in two respects as far as the culture of power is concerned.⁶⁹ The first was that after Hastings the post of governor-general went almost exclusively to British aristocrats and reflected the realization that continental bureaucratic empires can only be governed from the palace – the counting house mentality being utterly ill-suited.⁷⁰ Having said that, few in England

⁶⁹ Hastings's own motto may as well have been "When in India, do as the Indians do."

⁷⁰ In 1895, Winston Churchill, on his first visit to the United States was struck by the superior quality of communications in New York as compared to a rather unimpressive currency: "The communication of New York is due to private enterprise while the state is responsible for currency: and hence I came to the

understood the problems Hastings faced “in constructing the framework of civil administration from want of local knowledge, from the inefficiency of a refractory and corrupt Civil Service, and the venality of native officials.”⁷¹ The second was in part a consequence of this lack of understanding and entailed Hastings’s impeachment in a trial which dragged on for nine years.

On April 4, 1786, Hastings was charged with “sundry high crimes and misdemeanors.”⁷² If convicted, Hastings faced the death penalty. On May 1, Hastings began his defense by asserting, only as an arbitrary ruler could, that his decisions were “invariably regulated by truth, justice, and good faith” when the logical choice was to plead necessity of state and show some contrition.⁷³ On July 1, 1787, Edmund Burke, the leader of the campaign against Hastings, thundered: “I impeach him in the name of the people of India, whose laws, rights, and liberties he has subverted, whose properties he has destroyed, whose country he has laid waste and desolate.”⁷⁴ Burke’s impassioned plea on behalf of a collective (“The people of India”) that did not exist, and of rights and laws and liberties that had no indigenous variant in India, must not obscure the “nuggets of truth” in the accusations or the deeper implications of this rhetorical flourish.⁷⁵ The accusations were based on Hastings’s arbitrary exercise of power and established the earthly accountability of the supreme executive. That such arbitrariness and excess were

conclusion that the first class men of America are in the counting houses and the less brilliant ones in the government.” Martin Gilbert, *Churchill: A Life* (London: Minerva, 1990), 57. In continental bureaucratic empires, which account for the overwhelming preponderance of human historical experience, the equation between the “palace” and the “counting house” was precisely the opposite.”

⁷¹ G. W. Forrest, ed., *Selections from the State Papers of the Governor-General of India*, vol 1, *Hastings* (London: Constable & Co. Ltd., 1910), 161.

⁷² Conor Cruise O’Brien, *The Great Melody* (London: Minerva, 1993), 351.

⁷³ *Ibid.*, 354.

⁷⁴ *Ibid.*, 376.

⁷⁵ Jeremy Bernstein, *Dawning of the Raj: The Life and Trial of Warren Hastings* (London: Aurora Press Ltd., 2000), 166.

the norm in India did not matter. It was in principle wrong and every English officer of the Company was responsible for upholding the state morality of the British State of Laws whilst in India.

Actually doing so was the task of Hastings's liberal-aristocratic successor, Lord Cornwallis (1785-93). A product of the Enlightenment, Cornwallis believed that operating an efficient despotism on indigenous principles was morally and politically unacceptable as "The principle of despotic government is subject to a continued corruption, because it is even in its nature corrupt."⁷⁶ For Cornwallis "the essence of the problem was to limit government power and so prevent its abuse."⁷⁷ The judicial powers of the boards of revenue and collectors were taken away even though his closest advisors, such as John Shore, argued in favor of a strong district executive as the Indians "being accustomed to a despotic authority should only look to one master."⁷⁸ Secret inquiries were launched into the illegal activities of the Company's servants and despite the difficulties inherent in trying to prosecute white collar crime, by February 1787 the Advocate General was moving against the corrupt.⁷⁹ Cornwallis refused to exercise his discretion in order to favor candidates for official appointments simply because they were backed by the monarch or leading aristocrats.⁸⁰

The sovereign ended his universal proprietorship and vested it in the local landlords, or *zamindars* in the hope that an aristocracy would gradually emerge. In each district of Bengal the district judge was given control of the police and received greater status and pay than the collector. The armed retainers of the *zamindars* were disbanded

⁷⁶ Montesquieu, *The Spirit of Laws*, 115.

⁷⁷ Eric Stokes, *The English Utilitarians and India* (New Delhi: Oxford University Press, 1982), 4.

⁷⁸ A. Aspinall, *Cornwallis in Bengal* (New Delhi: Uppal Publishing House, 1987), 24.

⁷⁹ *Ibid.*, 16-17.

⁸⁰ *Ibid.*, 30.

and Indians removed from offices of importance. Officers were discouraged from accepting presents and, if they were ever placed in a situation where they couldn't refuse, the gift was made over to the public treasury, and examples were made of corrupt officers. Cornwallis made it clear through word and deed that he did not see the country as his personal estate and that the government machinery and servants of the state were beholden to the law. The greater reliance on Europeans was justified on the grounds that Indian officials were greatly influenced by their superiors' character and competence and thus "under an active collector of scrupulous integrity, all gross abuse of powers" was often prevented.⁸¹ Cornwallis and his acolytes thought that by "giving the landholders a permanent establishment in their possessions" a number of advantages would be reaped.⁸² First, the landlords would secure "the benefit of future improvement" and save and invest more wisely and so contribute to a general increase in the level of economic prosperity.⁸³ Second, the landlord would naturally contrast the security and assured importance granted by the British with their immeasurably more "precarious" condition under Indian rulers.⁸⁴ Third, this would gain their attachment to British rule and provide it with a broader social base especially in the countryside. Cultivating the landed elite was vital given that it was dangerous to "over-rate the advantages...from a favourable disposition on the part of the peasantry" which, in India, "pass with the land from ruler to ruler, with scarcely any consciousness of the change."⁸⁵

⁸¹ *Selection of Papers from the Records at the East India House Relating to the Revenue, Police and Civil and Criminal Justice under the Company's Governments in India*, vol I (London: E. Cox and Son, 1820), 59.

⁸² *Ibid.*, 15

⁸³ *Ibid.*

⁸⁴ *Ibid.*, 16.

⁸⁵ *Ibid.*, 26.

To make the law more effective and clear, Cornwallis began the process of codification.⁸⁶ Cornwallis's successors, Sir John Shore (1793-1798) and Lord Wellesley (1798-1805), continued along the classical liberal trajectory by expanding the scope of property rights, leaving dispute settlement to the judicial power, and limiting the executive function to the bare minimum required to maintain order and collect taxes.

The Cornwallis system did not work as planned. The judicial power was too slow, alien, and expensive to be the central element of the administration. By 1824, there were nearly one hundred and twenty-four thousand cases in arrears in Bengal alone.⁸⁷ It took time for the British to realize that whereas back home the "grandest and most expensive undertakings" could "be left to individual enterprise or the excitement of public spirit", the "opposite duty" fell upon their shoulders in continental bureaucratic empires such as India where an arbitrary culture of power had over centuries substantially crushed both.⁸⁸ Here it was expected that the rulers and their servants would provide the initiative, resources and organization, necessary for "the construction and maintenance of works of great public utility."⁸⁹ Learning from Indian history, it was increasingly appreciated that its sovereigns had "long been in the practice" of providing agricultural loans, manufacturing subsidies, building hydraulic and communications infrastructure, maintaining the intelligentsia, as well as ensuring order, collecting taxes, and defending the realm.⁹⁰ Continental bureaucratic empires, in other words, were ruled from palaces,

⁸⁶ The Cornwallis Code of 1793.

⁸⁷ Stokes, *The English Utilitarians and India*, 152.

⁸⁸ *Selection of Papers from the Records at the East India House Relating to the Revenue, Police and Civil and Criminal Justice under the Company's Governments in India*, vol I, 65.

⁸⁹ Ibid.

⁹⁰ Ibid.

not counting houses, and the ethos of leadership and management in such states were inspired by princely, not mercantile, values.⁹¹

The *zamindars*, deprived of their coercive powers, relied on loans to finance their indolent and lavish lifestyles. When they were unable to repay the loans, their lands were auctioned. The result was the emergence of a new class of absentee-merchant-landlords based in large measure in Calcutta who, much as the parasitic Turco-Persian *zamindars* they dispossessed, did little to improve agriculture. Furthermore, territorial and demographic expansion placed immense strain on a system that was structurally deliberative. By 1815, the British Empire in India had forty million subjects. Forty years later, it had about one hundred and fifty million with even more difficulties to grapple with.⁹²

In opposition to the Cornwallis program emerged the Munro school.⁹³ Munro and his supporters critiqued the Cornwallis system on two major points. The first concerned the transfer of proprietorship from the state to the *zamindars*. This had proved ineffective, if not counterproductive, because the *zamindars* could not shake off their cultural hangover from the Timurid period. Research into the tax records of Indian states annexed by the British indicated that in many places the earliest known revenue settlements were made with peasants and villages.⁹⁴ It also made sense that villagers and kinship groups, provided a predictable arrangement, would make a greater effort to improve their lot than

⁹¹ Lawrence James, *Raj: The Making and Unmaking of British India* (London: Abacus, 2003), 153.

⁹² Niall Ferguson, *Empire: How Britain Made the Modern World* (London: Allen Lane the Penguin Press, 2003), 56.

⁹³ Thomas Munro, a collector, and later governor of the Madras Presidency.

⁹⁴ H. H. Dodwell, ed., *The Cambridge History of India*, vol 5, *British India 1497-1858* (Cambridge: Cambridge University Press, 1921; reprint, New Delhi: S. Chand & Company (Pvt.) Ltd., 1987), 470.

zamindars accustomed to a life of extortion and ease. Thus, the state should transfer property rights to peasants or villages and settle revenue with them directly.

The second line of criticism addressed the role of the executive function in continental bureaucratic empires. The Cornwallis system relied on judicial power to settle disputes. While Montesquieu would have applauded this decision as a vital step towards a State of Laws, the Munro school argued in favor of making the executive function superior to the judicial. This was necessary because over centuries Indians had become accustomed to arbitrary rule through appointed servants. The number of disputes and the difficulty of applying standards of proof meant that the Cornwallis system bred inertia, confusion, and diluted the effectiveness of the state. It led to widespread abuses as landlords continued to resort "to nothing but arbitrary demands" enforced on the tenants "by stocks, duress of sorts, and battery of their persons."⁹⁵ Meanwhile, the local moneylender greatly aggravated "the evil by his own usurious practices" which drove both landlord and peasant to desperation.⁹⁶ Unlike the peasant who had no one to appeal to as the collector lacked the authority to redress his grievances and the judiciary was too remote, complex, and expensive, the moneylender had the means to move the courts for protection and engage in litigation, often frivolous, to secure his interests. The judicial approach to governance in a continental bureaucratic empire thus raised the cost of securing justice and was unintelligible to the vast mass of rural society. A strong executive presence was needed to negotiate the rural minefield.

Eventually, the views of the Munro school prevailed and were accepted by William Bentinck, Governor General of India from 1828-1835. Bentinck became convinced

⁹⁵ *Selection of Papers from the Records at the East India House Relating to the Revenue, Police and Civil and Criminal Justice under the Company's Governments in India*, vol 1, 211.

⁹⁶ *Ibid.*

that the separation of judicial and revenue powers had led to "inefficiency, misrule, and injustice."⁹⁷ The courts were simply overwhelmed at all levels, the detentions of prisoners under trial were being illegally extended, while the one person to whom ordinary people could appeal, and from whom the wealthy and powerful had anything to fear, the district collector, lacked the authority to settle problems as and when they occurred.⁹⁸ Bentinck was certain that if things continued as they were the British Empire in India would be very short-lived. His dire observation, on December 10, 1828, put the situation in perspective:

...if I were obliged to draw an inference from the facts and reports which each council brings more or less before us, as well as from the information received out of doors, I am afraid that I should be obliged to say, that the administration of civil and criminal justice, if not a complete failure, was so defective and inefficient as to demand our instant and most serious attention.⁹⁹

Given Bentinck's realism, proposals for a drastic reorganization of the district administration met with approval at the highest levels.

Starting in 1829, India was reconstituted as a hierarchy of administrative subunits (provinces, divisions, districts, sub-districts) ruled through a hierarchy of collector-magistrates with supervisory powers over the police (commissioners). Each district was small enough to be personally inspected by its commissioner. The commissioners acted in the classical generalist tradition of other continental bureaucratic empires and directed nearly all the activities of the British Empire in India. They were also the academic elite of the empire and expected to engage in substantial abstract and practical thinking in relation to the state. Their salaries and privileges, though laughable by Timurid standards, were, in absolute terms, enough to secure an upper middle-class living in Britain. The

⁹⁷ C. H. Philips, ed., *The Correspondence of Lord William Cavendish Bentinck: Governor-General of India 1828-1835*, vol I, 1828-1831 (Oxford: Oxford University Press, 1977), xxv.

⁹⁸ *Ibid.*, xxv.

⁹⁹ *Ibid.*, 111.

thousand to one thousand five hundred members of the Indian Civil Service (ICS) were the functional equivalent of the Timurid Empire's five hundred senior-most *mansabdars*.

Unlike the cosmetic differences between the pre-British continental bureaucratic empires, important features of the British State of Laws and culture of power seeped into the British Empire in India. The organs of the state, be they the civil service, police, customs, or the forestry department, were constituted under laws that could not be arbitrarily changed. Second, the recruitment, transfers, promotions, and discipline, of public servants were merit-oriented and conducted autonomously of the sovereign. Thus the officers were not the personal servants of the governor-general and could lawfully oppose, and campaign against, approved policy provided they did so through reasoned argument. Third, the cohesion and *esprit de corps* of the state service was remarkable when compared to the atomized and self-seeking nature of earlier bureaucratic elites.

Comparable developments took place in the relationship between the armed forces and the sovereign. Since ancient times, the military was an intensely political institution. The officers were the personal servants or slaves of the ruler. Should the ruler show any weakness, he would be confronted with insurrection and rebellion. There was no theoretical or practical distinction between the civil and military power. The British understood that the actual basis of their power and of all states, but imperial states in particular, was the ability to apply force effectively.¹⁰⁰ However, it was in the interest of the rulers themselves "that Government should disguise, as much as possible, the principle of its support."¹⁰¹

¹⁰⁰ *Selection of Papers from the Records at the East India House Relating to the Revenue, Police and Civil and Criminal Justice under the Company's Governments in India*, vol II (London: E. Cox and Son, 1820), 187.

¹⁰¹ *Ibid.*

The idea that men with weapons should obey unarmed servants of the law, which is the essential distinction between the rule of force and the rule of law, would have elicited nothing but contempt from pre-British rulers. Many rulers rose from the military to supreme power and thus it was simultaneously the deadliest instrument of arbitrary power and the greatest source of danger to the ruler. Their unique culture of power guided the British response to the same danger faced by rulers of continental bureaucratic empires for millennia. The solution was to insulate the military from politics and quite literally create a parallel political dimension within which the recruitment, transfers, promotions, and discipline of officers and enlisted men would take place through an autonomous institutional process. While concerns had been raised before the 1857 revolt, which began as a mutiny in the Bengal Army, it was not until after that trial by fire that more comprehensive policy guidelines were laid down. It was imperative that the military be separated from all civil functions, such as policing and taxation, and constituted as a full-time professional force governed by a combination of seniority and merit.

Finding this balance between the seniority and merit systems, then, as now, proved a difficult and controversial task. It was decided to strike a compromise and promote European officers primarily on the basis of seniority in order to prevent the exercise of patronage by the government and create certainty within the officer corps.¹⁰² However, "the promotion of Native commissioned and non-commissioned officers" was to be based primarily on efficiency rather than seniority.¹⁰³ Even those who disagreed with these decisions and argued for a system based solely on efficiency were constrained to admit that "security against favouritism and jobbery" could only be achieved through

¹⁰² *Report of the Commissioners Appointed to Inquire into the Organisation of the Indian Army, Together with the Minutes of Evidence and Appendix* (London: Her Majesty's Stationery Office, 1859), xi.

¹⁰³ *Ibid.*, xi.

the seniority system.¹⁰⁴ That said, the peasant communities and castes of northern India were to be the principal recruitment base for the army within which "castes should be placed upon a perfect equality."¹⁰⁵ The Bengal Army, moreover, was too numerous and its "fixed and most undeserved position of superiority with the Government of India" after the revolt was forfeit.¹⁰⁶ The system worked because the formulation of strategy remained in the hands of a combination of British parliamentarians and civil servants, which thus left the armed forces to focus solely on developing their operational proficiency in relative isolation from Indian society.

The ideocratic complex of the British Empire in India also manifested substantial differences from earlier empires. The most obvious was the freedom to criticize the rulers. The most important was the secularism of the state.¹⁰⁷ There was a bureaucratic intelligentsia but there was no official priesthood. Individual members of the apparatus did patronize Christianity and missionaries, but the consistent effort of the state was to place as much distance between itself and religion as possible.¹⁰⁸ The experience of the 1857 uprising by units of the Bengal army, which was fueled by belief in a Christian missionary conspiracy, drove this particular point home. In Britain and India missionaries came in for considerable criticism "which amounted in some quarters to the charge that

¹⁰⁴ *The Indian Army Commission Report of Major General Hancock* (London: Her Majesty's Stationery Office, 1859), 14-16.

¹⁰⁵ *Ibid.*, 27-8.

¹⁰⁶ *Ibid.*, 30.

¹⁰⁷ The Company's Charter required it to "protect" Indians "in the free exercise of their religions" and was interpreted by its officials as a mandate for "non-interference" in religious affairs. Avril Powell, *Muslims and Missionaries in Pre-Mutiny India* (Surrey: The Curzon Press, 1993), 80.

¹⁰⁸ Indeed, the East India Company and its officials feared "the consequences of allowing would-be missionaries" access to the parts of India under British rule. The missionaries often harped on "the sinfulness and vanity of all other religious paths" and were thus guaranteed to offend Hindus, Muslims and other religious communities in India. *Ibid.*, 76.

missionary provocation was the primary cause" of the rebellions of 1857-58.¹⁰⁹ By the 1880s, "most British officers had reverted to the habit of their predecessors of the 1820s in regarding missionaries as, at best; absurd; at worst subversive."¹¹⁰ Even those officers who remained sympathetic to the cause of Christian proselytizing in India began "avoiding any direct association with missionary publications or with public debates."¹¹¹ After 1857, as advised by prominent Indians, such as Sir Syed Ahmed Khan, the founder of Muslim modernism in India, some aspects of Indian court culture, such as durbars, and the distribution of prizes and honors, were revived.¹¹² On the whole, British India was remarkably devoid of the kind of ideocratic complex and behavior characteristic of other continental bureaucratic empires.¹¹³

Self-government and the institutions required to sustain it was in many respects the great project of the British Empire in India and the ultimate test of the exportability of the British State of Laws. The process began in the early nineteenth century in Calcutta, Madras, and Bombay. From 1850 to 1893 steady progress was made in local government institutions. The first four decades of the twentieth century saw the extension of the representative principle to the center and the provinces in British India and the

¹⁰⁹ Ibid., 283.

¹¹⁰ Ferguson, *Empire*, 155.

¹¹¹ Powell, *Muslims and Missionaries*, 284.

¹¹² David Cannadine, *Ornamentalism: How the British Saw Their Empire* (New York: Oxford University Press, 2001), 89-90.

¹¹³ Over the past forty years there has been a consistent attempt to read a great many things into the British Indian state's attempts at acquiring knowledge about its subjects. The broad thrust of the argument made is that in conducting censuses or compiling gazetteers at the local or regional levels the British somehow defined Indians into new categories that ossified into political identities. Thus, the 1871-72 census of India is taken as the starting point for the development of a distinctly "Muslim" or "Hindu" identity because people in India were asked to indicate their religious affiliation. Given the religious complexity and fractiousness of Indian society it was only logical that the British would want to know the number of people of different faiths in territories under their control. The idea that the British could impose identities on ancient and deeply ingrained religious and cultural traditions borders on the absurd especially if one is familiar with these traditions. A recent example of this line of inquiry is Alex Padamsee's *Representation of Indian Muslims in British Colonial Sources* (New York: Palgrave MacMillan, 2005).

Indianization of the civil service and military officer corps. In the course of applying the representative principle to the higher tiers of the state, such as an Imperial Advisory and Legislative Council (1909), or debating the relative merits of elections as opposed to nominations for local government, a sustained process of consultation and dialogue with Indians and Englishmen of all shades of opinion unfolded. A retired assistant commissioner, Raja Aurungzeb Khan, told the district commissioner of Jhelum in 1907 with reference to the input asked by the government about the desirability of establishing advisory and legislative institutions at the central level:

No Sahib, consult us by all means, but do it secretly. It is not right to put people in opposition to Government. I will tell you the truth. The Sarkar is well meaning...but it has made two fatal mistakes.

First it has given education to people unfitted for it; second, it has put the tenants above the land-lords. Now it wishes to put the *kamins*¹¹⁴ above itself. The Sarkar should never be a defendant.¹¹⁵

Narindra Nath, the deputy commissioner of Gujrat (Punjab), advised the government to consider questions of political economy and social change in framing its policy observing that "the enormous value attached to proprietary rights in land" was of "recent origin" and a departure from the pre-British period when "Husbandry was looked down upon as an inferior occupation."¹¹⁶ Furthermore, "Indian society" was "rapidly changing" and just as the "India of today is very different from India" a generation earlier, another couple of decades "may see changes in economic and other conditions which it is difficult to foresee."¹¹⁷ At the other end of the subcontinent another civil service officer posted in East Bengal, Babu Hari Charan Das, warned that the

¹¹⁴ Indicates a low caste, normally a worker or tradesman, such as a barber. Also used as an insult and to indicate inferior status.

¹¹⁵ *East India (Advisory and Legislative Councils)* Vol. II, Part II, *Replies of the Local Governments, Enclosures XXI to XXX to Letter from the Government of India, No. 21, dated the First of October 1908* (London: His Majesty's Stationery Office, 1908), 78.

¹¹⁶ *Ibid.*, 81.

¹¹⁷ *Ibid.*

representative principle would wreak havoc upon "The Indian – nay the Asiatic – idea of Government" which "is that it derives its sanction from the Creator of the Universe."¹¹⁸ On balance, while many expressed reluctance about the viability of the representative principle, consciousness of the phenomenon of change and the need for the state to adapt and develop without, however, compromising on the performance of its core functions, prevailed. By the 1920s many people with experience or power, if not both, would have agreed that it was "absurd to suppose that a handful of foreigners from across the seas can continue to rule indefinitely hundreds of millions of Orientals on the patriarchal lines pursued, with no essential modification."¹¹⁹

Although the turbulence wrought by the two world wars and a global economic depression accelerated the demise of the British Empire, in the subcontinent it left a legacy different in important respects from previous empires. The country was no longer the personal estate of the sovereign. The officers of the state, military and civil, were not personal servants of the ruler. The state was secular and almost anti-ideological in its ethos and laws. Representative institutions and a culture of constitutionalism and lawful opposition were in place, albeit in an underdeveloped form at the center. A substantial body of politicians had emerged many with decades of experience in local, provincial, and national affairs. The higher judiciary inspired confidence while the lower judiciary, though overburdened, kept the wheels of justice spinning at a tolerable pace.

Post-imperial writers have fixated on individual acts of brutality and oppression, such the siege of Delhi in 1857, the Amritsar massacre at Jallianwalabagh in 1919, the Mopilla Uprising of 1921, or the numerous flare-ups along the turbulent Indo-Afghan

¹¹⁸ Ibid., 47.

¹¹⁹ Evan Maconchie, *Life in the Indian Civil Service* (London: Chapman and Hall, 1926), 251.

frontier. These atrocities are worthy of condemnation and ideally should not have taken place. Compared, however, to other imperial powers, such as the Belgians in the Congo or the French in Indo-China and Algeria, the Russians in Central Asia and Eastern Europe, the Spanish in Central and South America, or the Japanese in China, British imperialism was astoundingly restrained. It is perhaps precisely to this restraint that the British owed their imperial success for it made possible collaboration and led many subject peoples to participate in the imperial project. Certainly, the kind of systematic violence employed by the British Empire in India's contemporary imperial formations was not engaged in by the British in India. Some of the greatest innovations instituted by the British were lawful opposition, agitation politics, and civil disobedience. These acted to release pressure, prevented armed insurrection and revolution, and ensured that while the British transferred power in August 1947, the change of regime did not fundamentally and immediately alter the nature or composition of the state. India and Pakistan had a choice between continuing along the path of legal democracy and building upon the institutions and habits bequeathed by the British or reversion to ideocratic arbitrary rule.

1.5 The End of the Beginning

In the preceding survey of the nature of state power in the subcontinent several important features merit recapitulation. First, the dominant form of the state in the subcontinent was the continental bureaucratic empire. Second, the culture of power of continental bureaucratic empires whether ruled by Hindus, Turks, or Europeans, exhibited high levels of arbitrariness. Third, under British rule serious and sustained efforts were made to reform the nature of the state in the subcontinent. The motivation for such reform came from the contradiction between the British experience of the state at

home and the profoundly different reality found in India. This, in turn, evolved into a gradual movement towards the establishment of a State of Laws in India that, however, incorporated many features of the continental bureaucratic empire. The objective of this synthesis was to establish a state that could achieve and sustain effective constitutional government along representative lines on a continental scale¹²⁰ and potentially establish a truly "imperishable empire" of reason, laws, and state-morality.¹²¹

It is to this effort more than anything else that the fact of Indian constitutional government owes its survival to the present day. Pakistan was far less fortunate in terms of the quality and quantity of its imperial inheritance and beset with such profound problems and challenges to its very existence that its founding fathers committed a number of errors that substantially altered its trajectory. Many of these errors were committed out of a combination of inexperience, expediency, desperation, and at a subconscious level, the reassertion of the subcontinent's ideocratic and arbitrary culture of power. It is to these original sins that we now turn.

¹²⁰ For a comparative perspective, see Larry Siedentop, *Democracy in Europe* (London: Allen Lane the Penguin Press, 2000). Particularly relevant is Chapter I "Democratic Liberty on a Continental Scale?", 1-24.

¹²¹ Macaulay's speech in the House of Commons on July 10, 1833. Later, as the Law Member of Bentinck's council, Macaulay advised the government not "to leave the natives to the influence of their own hereditary prejudices," stop spending money on publishing works in Arabic and Sanskrit for which there was hardly any market demand, and reorient public education towards instruction in English and the vernaculars. C. H. Philips, ed., *The Correspondence of Lord William Cavendish Bentinck: Governor-General of India 1828-1835*, vol II, 1832-1835 (Oxford: Oxford University Press, 1977), 1409-12.

CHAPTER TWO

ORIGINAL SINS

2.1 Ascension

The founding of new states is a difficult and morally compromising process. Rarely have new states emerged without the extensive employment of force and guile. Those who aspire to rule the new creation are rarely actuated by altruism. More often, it is the hunger for power, acute insecurities, opportunism, cynicism, and, at best, enlightened self-interest, that guide such endeavors. In an age of public opinion, aspiring elites may employ religious or ideological rhetoric to give their public pronouncements emotional resonance amongst the people in whose interests the great national liberation project is launched.¹ Communities, parties, movements and states, like individuals, "hide behind egocentric biases that generate the illusion that" they are somehow unique or motivated by higher purposes than their antecedents and adversaries.² In effect such "self-serving protective shields allow us to believe that each of us is above average on any test of self-integrity."³ Behind these masks lurks the actual motivating force which is cupidity or the combination of "avarice, greed" and "the strong desire for wealth or power over another."⁴

¹ Perhaps the most comprehensive study undertaken of the use of religious and ideological symbols as instruments of mass mobilization is M. Naeem Qureshi's *Pan-Islam In British Indian Politics: A Study of the Khilafat Movement, 1918-1924* (Leiden: Brill, 1999). Qureshi excavates the origins of the Ottoman Empire's ideocratic pretensions and explains with painstaking detail both the power and the limitations of the use of Islamic symbols for the purpose of generating popular support. Yet, in the final analysis, Qureshi found Pan Islam to be a mirage.

² Zimbardo, *The Lucifer Effect*, 5.

³ Ibid.

⁴ Ibid., 4.

In the subcontinent the experience of British rule was critical to the creation of a westernized elite.⁵ In 1900, for instance, the University of Calcutta, with eight thousand students, was the largest in the world. The westernized elite was drawn from Hindu, Muslim, Sikh, Parsee, and such other communities as existed and its members had a great deal more in common with each other than they did with the traditionalist members of their own communities. Some of the more important commonalities included an identification of progress with the industrialization of Europe, the use of the English language, the practice of law, and a desire for a greater share in the exercise of state power at all levels. Collaboration with the British coexisted with constitutional opposition, demands for great reforms and civil disobedience.⁶ While Englishmen may have been amused by the cultural pretensions of this elite and its claim to national leadership, it was with them that the British Empire in India negotiated, and it was to them that greater power and responsibility were transferred between 1909 and 1947.

Having established a national space for the western educated elites of all communities,⁷ the British hoped that the administrative unity of India would in time allow it to become a more organic and composite national state that would also prefer to remain within the British Empire. As wars, economic depression, and recurrent internal and international crises between 1914 and 1945 sapped the vitality of the British Empire and called into question its survival, a struggle for imperial succession began. The British

⁵ For more on the formation of this elite and its perpetuation after 1947 in Pakistan see Tariq Rahman, *Language Ideology and Power: Language-learning among the Muslims of Pakistan and North India* (Karachi: Oxford University Press, 2002).

⁶ For more on the complexity of the Pakistan movement see Sikander Hayat, *Aspects of the Pakistan Movement* (Islamabad: National Institute of Historical and Cultural Research, 1998). Hayat examines the Muslim nationalist position as an exercise in mobilization that contained mutually contradictory long-term objectives. It was successful owing to the qualities of leadership, charisma, and technical competence of M. A. Jinnah.

⁷ The space very slowly expanded to include some female leaders as well. For more see Dushka H. Saiyid, *Muslim Women of the British Punjab: From Seclusion to Politics* (London: MacMillan Press Ltd., 1998).

themselves were compelled by circumstances to "reconsider many of their assumptions about India" and accelerate "their projected timescale for political advance".⁸ This process of reassessment increased the power and influence of the educated Indians for "In the paid services of the Raj, Indians were crucial—from the 150,000 Indian troops, the majority of policemen, to those who manned the courts and the lower echelons of the civil government."⁹ After 1919, in British India, Indian ministers exercised control over a number of provincial subjects which were gradually expanded in response to demands. The steel-frame of the Raj, the ICS, had over three hundred and fifty Indian officers against about nine hundred Europeans by 1929. Even without the Second World War and the granting of independence in 1947, by the mid-1950s Indians would have reached the highest ranks in the official hierarchy (secretaries, generals and inspector-generals). Along with the Indianization of the administration and services "A recognizably modern, continental style and structure of politics was the arena in which were played out the issues of Imperial governance" as Indian society underwent considerable change.¹⁰

However, like the sons of the Timurid rulers, the westernized elites begotten by British rule fell out amongst themselves as soon as their father's hold became shaky and health visibly weak. The rise of Muslim nationalism and the demand for Pakistan were particularly clear manifestations of this phenomenon. In the 1900s and 1910s Muslim political leaders sought and to some extent secured special reservations and safeguards for their community. With the advent of organized provincial politics in the 1920s and 1930s, Muslim leaders bargained pragmatically along provincial lines. With the outbreak

⁸ Judith M. Brown, "India" in Judith M. Brown, ed., *The Oxford History of the British Empire* Vol. IV, *The Twentieth Century* (Oxford: Oxford University Press, 1999), 426.

⁹ *Ibid.*, 424–5.

¹⁰ *Ibid.*, 429.

of the Second World War the Muslims became "aware that provincial strategies might prove inadequate when the British devolved power at the continental level."¹¹ As had happened so many times before, either one element would prevail and the empire would hold, or an inconclusive outcome to the succession struggle would lead to fragmentation, the reemergence of warring states, and the intervention of "great outsiders." The inability of the Congress leadership to appreciate in time the seriousness of the situation combined with insecurity-driven but relentless and effective campaigning of the Muslim League set the stage for the division of the British Empire in India along communal lines. The westernized Muslims had little faith in the conversion of their Hindu counterparts to the secularism and liberalism they espoused given the reality of escalating communal violence and majoritarian chauvinism. The Hindu leadership could neither forgive nor forget the original sin of the eight centuries of Turco-Persian and Afghan "Islamic" domination that had preceded British rule.

The amount of time and energy expended by the Indian and Pakistani intelligentsias in reliving the controversies surrounding the liquidation of the British Empire in India and its partition along communal lines is indicative of a number of critical failings. Neither the Indian nor the Pakistani elite seems to understand that states are not judged by how they are born. States are judged by how they live and die. The leadership and intelligentsia on both sides of the divide have demonstrated a profound shallowness and inability to grasp that the real test of an elite's mettle lies in transcending the almost invariably sordid circumstances in which states emerge and rising above the recriminations, sorrows, and compromises that the process entails. Of the two states, however, Pakistan faced a far more taxing set of challenges.

¹¹ Ibid., 435.

The westernization experience of the Anglo-Muslim leadership was far inferior to its Hindu counterpart. This was partly reflected by the astonishing fact that only in the United Provinces did the Muslim community have a share in the total number of graduates proportionate to their population (around twelve percent). The territories of what would become West Pakistan had come under British rule in the 1840s. Direct British control was exercised in the settled districts of the Punjab, North-West Frontier Province (NWFP), and Sindh. Politics in these regions were dominated by Muslim landlords with Hindus more or less monopolizing industry and commerce. Across a thousand miles of Indian territory, lay East Bengal, the rural backwater of united Bengal. On the administrative side, by 1947, there were only a hundred and one Muslim civil servants in the All-India Services (AIS) and merely four Muslim military officers (out of over six hundred) of the rank of Lt. Colonel in the army.¹²

Even if the westernization experience of the Anglo-Muslim leadership had been superior to its Indian nationalist counterpart, partition generated pressures and contradictions of its own. The process was carried out in great haste and it was not until June 3, 1947, that the British finally acquiesced and made the necessary plan public, though even then the boundaries were yet to be determined. The partition had enormous consequences for Pakistan at both the central as well as the provincial levels. At the central level, Pakistan would need to set up a new federal capital (Karachi was chosen) in great haste wherein the institutions of a federal government would be established from scratch. At the provincial level, the two most populous provinces, the Punjab and East Bengal, would be carved out of their united antecedents along communal lines. This

¹² Hasan Askari Rizvi, *The Military and Politics in Pakistan 1947-1997* (Lahore: Sang-e-Meel Publications, 2000), 45.

meant that East Bengal, home to over half of Pakistan's population, would need a new capital city. The sparsely populated territories that now comprise Baluchistan were an assortment of directly administered territories and strong points, tribal areas and princely fiefdoms, held together by force of arms and imperial machinations. Baluchistan, however, accounted for some four-tenths of West Pakistan's territories, bordered Iran and Afghanistan, and enjoyed proximity to the Persian Gulf. An Indian National Congress government still ruled the NWFP and a referendum had to be conducted to determine its status vis-à-vis Pakistan. The Punjab was plunged into communal warfare with millions displaced and hundreds of thousands killed. Moreover, the establishment of Pakistan's federal capital at Karachi meant that the Sindh government, itself presiding over a refugee crisis of no mean proportions, was turned into a refugee in its own right and had to make room for the central government. War with India over Kashmir combined with an insecure émigré leadership added to the initial problems. Thus, Pakistan had to establish centers of administration where none existed before. The new edifice, moreover, had to be raised from the leftovers, spare parts, and poorly tested materials thrown into the ruling party's hand by chance, the haphazard division of assets and circumstance.

Religious rhetoric and symbolism had played an important role in the pan-Islamic, separatist and Pakistan movements led by the Anglo-Muslim elite. The British rule had substantially deprived the Muslim theological establishment (judges, teachers, readers collectively referred to as ulema) of "their privileged position in state and society."¹³ The land grants and stipends that sustained them were withdrawn while knowledge of Arabic, Persian, religious law, and traditional medicine, were rendered obsolete or became

¹³ Francis Robinson, *Islam, South Asia and the West* (New Delhi: Oxford University Press, 2007), 59.

irrelevant as prerequisites for state service.¹⁴ The Anglo-Muslim elite was inspired by a humanistic worldview and sought to reinterpret Islam in the light of scientific advances, industrialization, and new political and economic paradigms such as liberalism and communism. This elite was in direct competition for jobs, patronage, and political representation with its equivalents in other communities, and it felt threatened by Indian nationalism suspecting it to be a cover for the establishment of "a majoritarian Hindu utopia."¹⁵ Certainly the growth of extremist Hindu movements such as the Arya Samaj (1875), the Hindu Sabha (1909), the Hindu Mahasabha (1915), the Hindu Sangathan (1921-22), the Rashtriya Swayamsevak Sangh (1925), the abundant use of religious symbolism by "Mahatma" Gandhi, and the behavior of the Indian National Congress (INC) ministries in the provinces (1937-39)¹⁶ caused considerable disquiet. Critically, conservative Hinduism had a much easier time reconciling with European-style territorial nationalism and incorporating a sense of victimization, "conspiracy theories, and a never-ending sense of threat to Hinduism, which was equated with the nation."¹⁷

The Anglo-Muslim elite faced a far more complex situation. Since the British had deprived the ulema of status and basis for wealth, and established a secular state, conservative Muslims felt threatened by both the British imperialists as well as the "creatures of colonial rule, the western educated Muslims."¹⁸ Very few traditionalists believed that Jinnah, Liaquat and the other westernized Muslims wanted to establish the kind of traditionalist Islamic society desired by the ulema.¹⁹ This perception was

¹⁴ Ibid.

¹⁵ Jyotirmaya Sharma, *Hindutva: Exploring the Idea of Hindu Nationalism* (New Delhi: Penguin Books, 2006), 2.

¹⁶ Ibid., 7.

¹⁷ Ibid., 10.

¹⁸ Robinson, *Islam, South Asia and the West*, 61-2.

¹⁹ Ibid., 86.

validated by "Jinnah's undermining of the Shariat Application Bill of 1937" as well as his role in the Dissolution of Muslim Marriages Bill of 1939, which were a harsh lesson for conservative opinion as to where Jinnah stood.²⁰ In their desire to fight the British and the modernist Muslim "infidels", conservative Muslims and movements, such as the Deobandis, reconciled with the concept of composite nationalism articulated by the Congress.²¹

To a growing section of the Anglo-Muslim elite the danger to the Muslim community came not from the British, whose power was in visible decline after the First World War, but to the post-British dispensation. The administrative unity of India, from this perspective, was the product of the extraordinary exertions of the British imperial class. The Muslim separatists feared that when this elite withdrew power would, under a democratic dispensation, be captured at all levels by the majority Hindu community. The Congress was not, in their opinion, sincere in its professions of secularism and under democratic cover caste Hindu interests would dominate as soon as the British left. The only line of argument which was likely to resonate across the length and breadth of the Muslim India was that Islam was in danger and to save it a separate homeland (or homelands), ought to be carved out of India comprising those areas where Muslims were in a majority. The rhetoric combined with Jinnah's towering prestige and the imminence of British departure worked wonders. In the 1946 elections the All-India Muslim League (AIML) trounced its electoral opponents and secured some nine-tenths of both the popular Muslim vote and seats. Those swayed by the rhetoric were seeing in the

²⁰ Ibid.

²¹ Maulana Abul Kalam Azad, *India wins Freedom* (New Delhi: Orient Longman, 1988), 208-248. Azad was president of the Congress in 1923 and from 1940-1946. After independence he became India's federal minister for education and served till his death in 1958.

ambiguous Islamic rhetoric and rhythmic sloganeering what they wanted to see. The neurotic response of the Congress and nationalist press, which dubbed the 1940 Lahore Resolution as the Pakistan Resolution, lent substance to Jinnah's carefully prepared shadows. The price paid was an escalation of communal discord and religious fervor, both of which spun out of control by the end of 1946.²²

The Anglo-Muslim elite that successfully prosecuted the Pakistan demand suffered from many important handicaps. Its westernization experience was qualitatively and quantitatively inferior to the leaderships of other Indian communities in general but especially the Hindus in particular. Whereas India already existed, Pakistan's executive agencies would have to be put together at the central and provincial levels amidst tremendous chaos. Further complications arose from the nebulous and contradictory nature of the Pakistan demand itself, even within the Muslim League – that Ch. Zafarullah Khan, a prominent Ahmedi, and Maulana Shabbir Ahmad Usmani, a leading Deobandi dissident, found themselves in its leadership testifies to this. The religious rhetoric and communal violence generated a dynamic of its own, while the migrations and slaughter cleared the ground for a new society and economy to emerge along with a new state. India's implacable hostility, in many respects a continuation of pre-partition debates, exacerbated contradictions.

Faced with these challenges, Pakistan's new rulers responded along certain lines the impact of which can still be felt today. First, the siege situation from within and without convinced the central government to concentrate as much power as possible in its

²² By June 1947, the Muslim League had raised a force of nearly a hundred and forty thousand national guards. The Congress and its allies has raised a force of about one hundred thousand. The Hindu fundamentalists, however, outdid both Muslim separatists and Congress nationalists and armed more than one hundred and ninety thousand. B. B. Misra, *The Indian Political Parties: An Historical Analysis of Political Behavior up to 1947* (Delhi: Oxford University Press, 1978), 611-612.

own hands. Second, in order to legitimize this appropriation of authority, increasing emphasis was laid on the center's monopoly of competence as regards development work, and the ideological nature of the state. Third, as power became more centralized and the rhetoric more audacious, the elected politicians progressively lost their cohesion and desire to make policy and supervise its execution. Into this vacuum entered "the establishment", a coterie of senior bureaucrats and military officers. Collectively, these original sins, products as much of accidents and circumstances, as of idiosyncrasies, represented the first steps towards the reassertion of an arbitrary, delusional, and ultimately self-destructive culture of power.

2.2 In the State of Siege

On January 10, 1949, Francis Mudie, the governor of the Punjab, complained in an exasperated tone to prime minister Liaquat Ali Khan that the Punjab's chief minister, the Nawab of Mamdot "...has, to everyone's knowledge, defeated the Centre, even the Qaid, every time that they have intervened and the feeling is growing that the Centre is powerless even when the Government is hopelessly corrupt and the administration paralysed."²³ The governor continued that "No questions of policy are even contemplated", it was almost impossible to get routine work out of the way, while the services were increasingly demoralized, the ministers were interfering in the administration and becoming "more and more rapacious."²⁴ Rivalries within the Muslim League were spiraling out of control, while Mamdot was characterized as "lazy, inefficient and a liar" whose "main interest in the administration is to obtain possession

²³ National Documentation Centre, Islamabad. Folder Six, 1949. File No. 2(2)-PMS/49, Government of Pakistan, Prime Minister's Secretariat, "Correspondence with the Governor, West Punjab", 4.

²⁴ *Ibid.*, 7.

of evacuee land" and "his brothers have done very well indeed" out of such allotments.²⁵ Mamdot's followers were bound to him by expectations of patronage and would ditch him if he fell from power.²⁶ The provincial government was employing "corrupt officers because they are the willing tools" of the chief minister to "the neglect or worse of honest officers."²⁷ The governor warned that if this is allowed to continue "democracy will be discredited to such an extent that it will inevitably sooner or later be overthrown."²⁸

In response to this and other pleas the center imposed Section 92-A, dismissed the Mamdot ministry, and constituted a Council of Advisers answerable directly to the center via the governor. By May 30, 1949, there was "a marked improvement in the standard of administration", extensive touring by the government ministers was taking place and the provincial revenue agencies had launched a drive to collect overdue taxes yielding an additional ten million rupees in its first month.²⁹ Having said that, the governor had himself warned earlier that Section 92-A was at best a temporary measure and could not offset the "feeling that the League is not only corrupt, but totalitarian" and the likelihood that it would lose in a free and fair election.³⁰ Those ousted by the center's interference soon wormed their way back into the mainstream and launched effective attacks upon the governor and administration whom they sought to dislodge owing to his refusal to assist government candidates in the forthcoming elections.³¹ Mudie was thus forced out. His resignation was accepted on July 9, 1949. Eleven days earlier, Ambrose Dundas, the NWFP's governor, had received the acceptance of his resignation. He had informed the

²⁵ Ibid.

²⁶ Ibid., 9.

²⁷ Ibid.

²⁸ Ibid., 7.

²⁹ Ibid., 67.

³⁰ Ibid., 152-3.

³¹ Ibid., File No. 2(6)-PMS/49, Government of Pakistan, Prime Minister's Secretariat, "Resignation of Sir Francis Mudie", 252.

prime minister that "I do not think you know how tired I am",³² and warned that due to the absence of effective central control "a great deal now goes on of which I disapprove and which I think to be bad policy, bad for the Province and bad for Pakistan."³³ The state was "not doing nearly so well as appears on the surface, and I like it less and less."³⁴ Dundas was successful in convening tribal *jirgas* and ensured that practically all the tribes ratified "new treaty-based settlements between them and the Pakistan government on the colonial model."³⁵ In April 1948, the contribution of the tribes to the war effort against India in Kashmir elicited thanks from Jinnah and resulted in "the withdrawal of all regular army presence and garrison from the region."³⁶ One of the major incentives for the tribal leaders, chieftains and princes was "the ratification of their authority" by the new government.³⁷ That the Pakistani government had teeth was demonstrated by its use of air power against the Fakir of Ipi in 1948, and the bombardment of hostile tribal forces on the Afghan side of the border in 1949.³⁸

The warnings and admonishments delivered by the last Englishmen to rule the subcontinent reflect the crisis raging within the state. The NWFP had already experienced the dismissal of its government by the center in August 1947. Baluchistan had already experienced the first of many military actions launched by the center in the shape of the operation against the Kalat State on June 22, 1948. In other regions, such as Bahawalpur State and Sindh central intervention through overt and covert means was alternately

³² Ibid., File No. 2(8)-PMS/49, Government of Pakistan, Prime Minister's Secretariat, "Retirement of Sir Ambrose Dundas", 265.

³³ Ibid., 269.

³⁴ Ibid.

³⁵ Sana Haroon, *Frontier of Faith: Islam in the Indo-Afghan Borderland* (London: Hurst & Company, 2007), 181.

³⁶ Ibid., 182.

³⁷ Ibid., 183.

³⁸ Ibid., 187-190.

invited and condemned by local leaders eager to settle scores with each other. East Bengal was simmering with discontent over the national/official languages controversy. Kashmir was the scene of direct military confrontation with India.

In the context of refugee rehabilitation, the Punjab's governor informed the center that the most galling fault of the Muslim League ministers was "their refusal to cooperate with the Pakistan-West Punjab Refugee and Rehabilitation Council or even to attend its meetings, unless they have some personal axe to grind."³⁹ Of the three committees under Punjab government ministers formed to deal with different facets of the refugee crisis only one "has sent us any proceedings at all."⁴⁰ In exasperation, the governor advised in favor of greater central control so as to secure a coordinated and uniform response to the refugee crisis and "of removing this problem...from local politics and personalities."⁴¹ Indeed, serious consideration needed to be given to effective concentration of power at the center "and a restoration more or less to what used to be the position before the 1935 Act introduced more or less complete provincial autonomy."⁴²

The refugee crisis was but one component of the state of siege. As over ten million brutalized and suddenly impoverished people streamed into and out of Pakistan, crises loomed on multiple fronts. India, believing Pakistan to be a temporary visitor, did whatever it could to hasten Pakistan's departure. Stores and equipment were held up, funds were handed over only upon Gandhi's intervention, water and currency disputes combined with direct military pressure on West Pakistan, almost overwhelmed the new

³⁹ National Documentation Centre, Islamabad. Folder Three, 1948. File No. 2(2)-PMS/48, Government of Pakistan, Cabinet Secretariat, Prime Minister's Secretariat Branch, "Correspondence with the Governor of West Punjab (Ref. Rehabilitation of Refugees)", 22.

⁴⁰ *Ibid.*, 38.

⁴¹ *Ibid.*, 24.

⁴² *Ibid.*, 25.

state. In East Bengal, the center's desire to make Urdu the language of national communication raised a storm of controversy. Across the Durand Line, Afghanistan, egged on by India, claimed Pakistani territory up to the Indus and earned the distinction of being the only country to vote against Pakistan's entry to the United Nations. Religious parties, many of whom had opposed the creation of Pakistan, such as the Jamaat-i-Islami (JI), began opening their franchises in the Muslim homeland and agitated for its conversion into a priestly state. Communist agitation and desire to bring about a revolution in Pakistan added to the anxieties of the Muslim League leadership. Navigating the ship of state through this storm was a tremendous undertaking.

As the challenges to its executive authority emerged and became more complex, the central leadership sought refuge behind Jinnah's transcendental prestige and charisma. As things stood, Jinnah was the governor-general and the president of the Constituent Assembly. Already, on December 30, 1947, the central cabinet adopted a convention that aimed at fusing Jinnah's personal authority, standing, and popularity, with that of the government's. At the cabinet meeting the ministers,

...were all agreed that the Quaid-i-Azam's presence was the greatest factor making for the stability and progress of the State...no question of policy or principle should be determined and decided except at a meeting of the Cabinet to be presided over by the Quaid-i-Azam...in the event of any difference of opinion between the Cabinet and the Quaid-i-Azam latter's decision should be final.⁴³

A minister enthusiastically added:

...that it would be recalled that as soon as the Cabinet was sworn in on the 15th August, the Ministers had made it known to the Quaid-i-Azam that they did not wish him to be only a constitutional Governor-General. The people looked to the Government as the Quaid-i-Azam's Government.⁴⁴

⁴³ 1947, File No. 21/CF/48, Government of Pakistan, "Adoption of Convention by the Cabinet", 1.

⁴⁴ Ibid., 3.

Jinnah observed that "It was entirely for the Cabinet to decide" what issues should be brought to his attention and asserted "that he had not the slightest intention of taking the decisions himself."⁴⁵ Moreover, "only questions of policy" should be brought to his notice and no one would or could "dispute that democracy was the ideal to be aimed at."⁴⁶ The cabinet unanimously approved the convention and stipulated that Jinnah "will be entitled to call upon the Secretary-General or the Secretary of any Ministry to furnish him with any information he might require and they shall be bound to do so."⁴⁷ The convention was declared "personal to the Quaid-i-Azam" and was to last "until the final constitution of Pakistan" comes into force.⁴⁸

In passing this convention the Muslim League government created a number of damaging precedents. First, the convention obsequiously acknowledged that the Muslim League drew its strength from Jinnah and felt his sanction to be vital to the formulation of policy. Second, it represented the first legitimization of extra-constitutional authority and Jinnah had himself pointed this out in the course of the discussion concerning the convention. Third, it enabled the governor-general to directly commune with the senior levels of the civil service without reference to the cabinet. Fourth, it made it appear that the government was of a personal, not institutional nature. And finally, it represented a reversal of the direction that constitutional development in the subcontinent had taken over the past generation in making the executive more accountable to the other branches of the state. On August 11, 1947, Jinnah had declared that the legislature was the real sovereign and had all the power and authority. By December 30, 1947, the leading

⁴⁵ Ibid., 2-3.

⁴⁶ Ibid., 2.

⁴⁷ Ibid., 5.

⁴⁸ Ibid.

members of that same legislature had elevated the governor-generalship and Jinnah's person to a sovereign position. Although Jinnah's personal status and contribution may well have been above reproach, the precedent of reordering constitutional norms to aggrandize the transient occupants of the highest offices in the country became, and remains, an enduring feature of Pakistan's culture of power.

Sitting in Karachi the central government saw provincial politics as an interminably discordant enterprise. An effective medium was needed to execute the will of the central government and preserve the state. "The larger interests of the State" necessitated that the most important services which materially affected "the lives of the people", specifically the Civil Service of Pakistan (CSP) and the Police Service of Pakistan (PSP), "should be used to promote homogeneity and a common outlook."⁴⁹ Care had to be taken to strike a balance between knowledge of local conditions and loyalty to the center. It was felt that the provincial governments were generally not up to the task of making policy in their own sphere of competence and too prone to confusing politics with administration to supervise and execute policies made either by themselves or by the center. This was unfortunate because practically everything that materially affected the well-being of the governed, ranging from law and order and land revenue, to health, education, local government, and public works, were supposed to be under the provincial governments. As the crises continued and the center became increasingly disheartened by the manner in which even the most routine functions, such as collecting water-rates, or the most vital to the survival of the state, such as managing the refugee problem, were subordinated to politics, greater emphasis came to be placed on centralization.

⁴⁹ National Documentation Center, Islamabad, Folder Five, 1949. File No. 3(4)-PMS/49, Government of Pakistan, Prime Minister's Secretariat, "Correspondence with the Hon'ble Minister for Interior, Information and Broadcasting", 133.

The provincial governments themselves reinforced the center's perception by alternately appealing to and defying central intervention. In the context of the Sind-Khairpur irrigation dispute, for instance, the prime minister was advised that nothing less than direct personal "intervention could bring about a just and fair settlement between the contending parties."⁵⁰ The prime minister was also urged to display a firm attitude so that settlement could be reached.⁵¹ The provinces, even as they failed to resist the center's taking over of the right to collect sales tax and its abolition of the provincial petrol tax, berated the center for failing to provide funds for development and for favoring certain areas, such as the Punjab and urban Sindh, over others, such as rural Sindh and East Bengal.

The fact was that the center did pay more attention to the Punjab owing to the severe dislocations endured by that province. Of the nearly seven million refugees to pour into West Pakistan, four million four hundred thousand arrived in the Punjab.⁵² The task of resettling the refugees on agricultural land was entrusted to the district commissioners operating under the central Ministry of Refugees and Rehabilitation in their capacity as District Rehabilitation Officers. Their performance was remarkable and with a total of less than a hundred officers working round the clock some nine-tenths of the refugees had been resettled by 1949 on rural properties.⁵³ At no stage in this entire exercise did order completely breakdown for any length of time and the police matched the performance of their colleagues in the civil service and rescued some forty-thousand abducted women.

⁵⁰ National Documentation Centre, Islamabad, Folder Twelve, 1950. File No. 7(1)- PMS/50, Government of Pakistan, Prime Minister's Secretariat, "Correspondence with the Chief Minister of Sind - Sind-Khairpur Irrigation Dispute", 217.

⁵¹ Ibid.

⁵² 1949, File No. 20/CF/49, Government of Pakistan, Cabinet Secretariat, Cabinet Branch, "General Summary of the Policy and Progress of Resettlement of Muslim Refugees on Evacuee Lands in West Pakistan," 6.

⁵³ Ibid.

Sindh's governor, communicating with the governor-general in 1952, shortly after the imposition of Section 92-A, observed that "it is the Services who are really responsible for the good or bad government of a country."⁵⁴ The governor also felt that the Center "should for some time" allow the provincial governments control over their administrations as most of the officers even from the purely provincial cadres who were being appointed and transferred by the center "did not pay so much regard to the Provincial administration as they should" and looked directly up to the central government.⁵⁵

The centralization of revenue collection referred to above was justified on the grounds of heavy defense spending, the need to rapidly develop an industrial base to increase total revenues and conserve foreign exchange, the insufficiency of existing sources of revenue, and the prospect of heavy deficits.⁵⁶ In addition to taking over sales tax and relieving the provinces of the petrol tax and agricultural income tax, the center appropriated "the full discretion to increase the customs and central excise duties and to retain the whole of the proceeds."⁵⁷ The idea that gained ground at the center was that the provinces could be induced to give up their control over the raising and collection of revenue, especially from growing sources such as taxes on consumption of goods and services, "if we agreed to share the proceeds with them on a basis to be worked out because they would then be relieved of the opprobrium of levying" the taxes

⁵⁴ National Documentation Centre, Islamabad, Folder Nineteen, 1952. File No. 2(3)-PMS/52 Pr. III, Government of Pakistan, Prime Minister's Secretariat, "Correspondence with the H. E. the Governor of Sind", 60.

⁵⁵ National Documentation Centre, Islamabad, Folder Seventeen, 1952. File No. 1(1)-PMS/52, Government of Pakistan, Cabinet Secretariat, Prime Minister's Branch, "Correspondence with the Governor General of Pakistan", 48.

⁵⁶ 1947, File No. 224/CF/47, Government of Pakistan, Cabinet Secretariat, Cabinet Branch, "Readjustment of the Tax Structure Between the Centre and the Provinces", 1.

⁵⁷ *Ibid.*, 2.

themselves.⁵⁸ Evidently, the provinces did not realize that the opprobrium of raising funds on their own, or self-taxation, was the essence of self-government, without which all the rhetoric about provincial autonomy was a meaningless exercise in political semantics. For the central government, its finance minister, Ghulam Muhammad, effectively summarized the nature and extent of the siege and the desperate situation faced by the center, which, in turn, justified such measures as had to be taken, in his budget speech for 1947-48:

I also wish to emphasize that formidable as the lack of industrial development is by itself the situation has been rendered more difficult by the manner in which partition has taken place. Quite apart from the patent inequities of the Boundary Award which has materially affected our economy, the process of partition has resulted in India remaining in full possession of all the privileges, facilities and institutions vital to the economic and financial well being of a nation, while Pakistan has to build up everything from scratch, and that too with its limited resources.⁵⁹

One of the most effective mechanisms of administrative and fiscal centralization was state-sponsored economic development. The speed with which the center moved to take charge of economic development was remarkable given the other challenges it faced. By April 1949, the Ministry of Economic Affairs constituted an Economic Policy Branch integrating planning and supervision.⁶⁰ Already, some one hundred and forty-three development schemes were under examination and fifty-one were being processed for approval.⁶¹ An Industrial Finance Corporation was started with capital of thirty million rupees to execute schemes with the assistance of provincial governments in order to facilitate "private enterprise."⁶² Between April and September 1949, proposals for one

⁵⁸ Ibid., Cabinet Meeting, December 24, 1947, Case No. 217/33/47, 1.

⁵⁹ Ibid., "Speech of the Finance Minister", 1.

⁶⁰ 1948, File No. 150/CF/48, Government of Pakistan, Cabinet Secretariat, Cabinet Branch, "Half Yearly Summary of the Ministry of Economic Affairs", No. 69 (5), EA/Admin/49, November 1948-April, 1949, 1.

⁶¹ Ibid.

⁶² Ibid., 1-2.

hundred and eighty-nine schemes were received, of which ninety-one were approved at a projected cost of more than six hundred and fifty million rupees to be spent over five years.⁶³ Of this amount, some two hundred and thirty-six million rupees were marked for East Bengal.⁶⁴ It is remarkable to behold a central government located in Karachi determining the extent of financial help to the Holy Family Hospital in Rawalpindi, building spinning mills and a paper mill in East Bengal, taking acute interest in bamboo production, promoting the wool industry and sheep rearing in the pastoral expanses of Baluchistan and the NWFP, or, for that matter, setting up a Mycological Herbarium in the environs of the capital.⁶⁵ The initial experience gained from the development exercise reinforced the center's growing sense of its monopoly of competence and confirmed the perception that the provincial governments, for all their rhetoric, had no real interest in improving the lot of the people of Pakistan:

...the Governments of East Bengal and Sind have not made use of the Central Government's offer of development schemes. Consequently, no progress at all has been made in respect of the development schemes pertaining to which loans were sanctioned to East Bengal. Sind has proceeded slowly with the Lower Sind Barrage Project. Even the Governments of Punjab and NWFP who drew the loans offered to them during the last two financial years have not made full use of the money at their disposal.⁶⁶

Indeed, the Punjab spent only thirty-three percent of its allocation for 1948-49 and twenty-five percent in 1949-50, while the NWFP spent thirty-three and twenty-six percent of its allocations for the same years, respectively.⁶⁷ The center concluded that "The performance of Provincial Governments has thus been rather disappointing. At the

⁶³ Ibid., "Half Yearly Summary of the Activities of the Ministry of Economic Affairs for the Period April 1949 to September 1949", 1.

⁶⁴ Ibid., 2.

⁶⁵ Ibid., 1.

⁶⁶ Ibid., "Half Yearly Summary of the Activities of the Ministry of Economic Affairs for the Period October 1949 to March 1950", 3.

⁶⁷ Ibid.

same time, none of these Provincial Governments have reported any real difficulty which may have held up the progress of any Provincial schemes."⁶⁸

We can thus see in action the principal mechanism by which fiscal and administrative centralization combined with development planning by remote agencies took shape well before the first mission of the International Bank for Reconstruction and Development (IBRD) to Pakistan arrived at Karachi on February 14, 1950.⁶⁹ The state of siege and the imperatives to which it gave rise justified the center's assumption of the right to collect taxes from what were provincial sources of revenue. The central government encountered remarkably little resistance for the provincial politicians either did not understand the link between self-taxation, however unpleasant, and self-government, or were too busy undermining the local governments and playing politics with everything they could lay their hands on. Even in those areas of their direct concern, the politicians failed to demonstrate the will or ability to sit down and formulate policy, oversee its execution, and make adjustments as necessary. The central government made this process easier by offers of loans, development assistance, and a share of national finances. Once the provinces became dependent on central allocations and disbursements their secretariats lost control over the projects in question while planning, financing, and supervision, were drawn into central hands. When this process failed to yield the expected results, the center concluded that the provinces were utterly ill-suited to constructive activity and further centralization occurred. The availability of foreign sources of funding from 1950 onwards further strengthened the hands of the center for the provinces could not raise loans on their own from abroad. Rapid import substitution

⁶⁸ Ibid., 4.

⁶⁹ Ibid., 6.

industrialization determined the center in a country where nine-tenths of the people lived by subsistence agriculture, was the key to saving foreign exchange and building up a tax base to meet defense needs. Defense expenditures owing to the conflict with India were a serious burden and consumed on average about six-tenths of government expenditure during the first decade of Pakistan's existence.

Purchases of military equipment, the search, initially futile, for foreign allies, and the prioritization of defense needs may have given the new state a sense of purpose and some confidence relative to its truculent neighbors, but it did little to assuage the political insecurities of the Muslim League's leadership. Jinnah's death in September 1948 deprived the Muslim League of its moral and psychological anchor. Faced with growing dissensions within the ranks and the challenge of traditionalists who, having by and large opposed the creation of Pakistan, reinvented themselves as Pakistan's moral custodians, as well as the communists, the Muslim League leadership led by such luminaries as Liaquat Ali Khan, Zafarullah Khan, Ishtiaq Hussein Qureshi, and Maulana Shabbir Ahmad Usmani, took to redeploying the religious rhetoric of the Pakistan movement.⁷⁰ The deviation from Jinnah's express desire that Pakistan ought not to be a priestly or theocratic state was substantial and the Muslim League leadership turned its back upon Jinnah's eminently sound advice given in his address to the Constituent Assembly on August 11, 1947, in his capacity as its president:

...everyone of you, no matter to what community he belongs, no matter what relations he had with you in the past, no matter what is his color, caste or creed, is first, second and last a citizen of this State with equal rights, privileges, and obligations...

⁷⁰ See for instance the *Constituent Assembly Debates* March 12, 1949 (Karachi: Pakistan Publications, 1949), esp. 90-94 concerning the adoption of the Objectives Resolution referred to below.

...We should begin to work in that spirit and in course of time all these angularities of the majority and minority communities...will vanish.

...You are free; you are free to go to your temples, you are free to go to your mosques or to any other place or worship in this State of Pakistan. You may belong to any religion or caste or creed that has nothing to do with the business of the State...We are starting with this fundamental principle that we are all citizens and equal citizens of one State. The people of England in course of time had to face the realities of the situation and had to discharge the responsibilities and burdens placed upon them by the government of their country and they went through that fire step by step. Today, you might say with justice that Roman Catholics and Protestants do not exist; what exists now is that every man is a citizen, an equal citizen of Great Britain and they are all members of the Nation.

Now I think we should keep that in front of us as our ideal and you will find that in course of time Hindus would cease to be Hindus and Muslims would cease to be Muslims, not in the religious sense, because that is the personal faith of each individual, but in the political sense as citizens of the State.⁷¹

In March 1949, the Muslim League pushed through over the opposition of all the non-Muslim members of the Constituent Assembly in attendance, the Objectives Resolution, which declared:

Whereas sovereignty over the entire universe belongs to Allah Almighty alone and the authority which He has delegated to the State of Pakistan, through its people for being *exercised within the limits prescribed by Him* is a sacred trust....

Wherein the principles of democracy, freedom, equality, tolerance and social justice *as enunciated by Islam* shall be fully observed...

Wherein the Muslims shall be enabled to order their lives in the individual and collective spheres *in accordance with the teachings and requirements of Islam as set out in the Holy Quran and the Sunnah*...⁷²

The ulema were not pleased with the fact that in the Objectives Resolution the elected representatives had appropriated the right to legislate for themselves. The ulema contended, not illogically, that a parliament dominated by the laity had neither the

⁷¹ Mohammed Ali Jinnah, "Presidential Address to the Constituent Assembly of Pakistan", August 11, 1947, in Khurshid Ahmed Khan Yusufi, ed., *Speeches, Statements and Messages of the Quaid-i-Azam*, vol. iv, 1946-48. (Lahore: Bazm-i-Iqbal, 1996), 2602-6.

⁷² My emphases. See, *Constituent Assembly Debates* March 12, 1949, (Karachi: Pakistan Publications, 1949) 90-4.

knowledge, nor the moral prerogative, for the interpretation of the laws and traditions of Islam. The Objectives Resolution reopened the debate on sovereignty and citizenship, alienated the minorities and opposition, and whetted the appetites of the ulema, whose ranks had swelled due to the migration of many of their counterparts from India.⁷³ Thanks to a network of seminaries, which numbered one thousand and seventy-four and had over eighty-five thousand pupils at the secondary and higher levels in East Bengal alone, in addition to innumerable mosques spread across the length and breadth of the country,⁷⁴ the ulema were able to exert considerable pressure on the government. Indeed, "the traditionalists, by their simplistic emphasis on the formal classical apparatus of an Islamic state, couched their message in general terms so that it had the capacity of being widely understood. This put them at a considerable advantage over the modernists."⁷⁵

The JUI-P (Jamiat-Ulema-i-Islam, Pakistan) declared that as Islamic law is perfect and complete only qualified interpreters were needed.⁷⁶ Other clerics demanded that non-Muslims be declared *dhimmis* (protected subjects of an Islamic state without full citizenship) while Maulana Abdul Hamid Badayuni insisted that the non-Muslims be barred from the army and judiciary.⁷⁷ Maulana Mohammed Ibrahim Chisti complained of the "fuss" about democracy and minorities and the unnecessary "emphasis upon Western concepts."⁷⁸ The relatively more sophisticated Maudoodi, acknowledging the possibility of delegation of authority by God, pointed out that some parts of the Sharia could be

⁷³ Freeland Abbot, *Islam and Pakistan*, (Ithaca: Cornell University Press, 1968), 186.

⁷⁴ Khalid B. Sayeed, *Political System of Pakistan* (Boston: Houghton Mifflin Company, 1967), 167-8.

⁷⁵ Inamur Rehman, *Public Opinion and Political Development in Pakistan 1947-1958* (Karachi: Oxford University Press, 1982), 38.

⁷⁶ Golam W. Choudry, *Constitutional Development in Pakistan*, (London: Longman Group, 1969), 48.

⁷⁷ Ibid.

⁷⁸ Ibid.

altered, but only by experts in Islamic law and traditions.⁷⁹ In the debate over the Islamic provisions of the constitution, the modernists contended that "The Ulema were intolerant of criticism" while the latter retorted "that no criticism could, indeed, be tolerated against the fundamentals of Islam."⁸⁰ There was, and is, an almost universal tendency amongst politically active "doctors of religion" to equate dissent with heresy, define politics "in dictatorial, not democratic terms", and thus stifle reasoned argument in public life.⁸¹ The ultimate weapon in the hands of the forces of "obscurantism and religiosity" was the constant threat "of excommunication."⁸² The medievalization of public discourse had found a fresh momentum.

On August 7, 1950, Sindh's governor communicated his vision for the "budding nation of Pakistan."⁸³ It was imperative that the Pakistani public, eighty-five percent of them Muslim, be instructed by the state to live in accordance "with the true Islamic way of life."⁸⁴ In order to achieve this objective, "the general policy of our education should be revised," religious instruction made compulsory at school, and Pakistan "must have a portfolio for religious affairs in the Central Cabinet."⁸⁵ A proper Islamic education was the solution to all of Pakistan's problems.⁸⁶ These views met with a sympathetic hearing as the commerce and education minister had already communicated his analysis of the subject to the prime minister on September 19, 1949:

⁷⁹ Allen McGrath, *The Destruction of Pakistan's Democracy*, (Karachi: Oxford University Press, 1996), 68.

⁸⁰ Rehman, *Public Opinion and Political Development in Pakistan 1947-1958*, 23.

⁸¹ K. K. Aziz, *Pakistan's Political Culture: Essays in Historical and Social Origins* (Lahore: Vanguard, 2001), 116-117.

⁸² Ibid., 127.

⁸³ National Documentation Centre, Islamabad, Folder Nine, 1950. File No. 2(3)-PMS/50, Government of Pakistan, Prime Minister's Secretariat, "Correspondence with the Governor of Sindh", 21.

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ Ibid., 22.

The existing system of education, with its alien background, coloured by Hindu and Christian ideas, is so foreign to the spirit of our ideology that, for so long as it continues, it cannot be expected to produce men and women who would realize the value of the Islamic way of life and would make loyal and zealous citizens of Pakistan.⁸⁷

In order to produce the new Islamic man and woman, "we have to draw up the syllabus for every subject on the basis of Islamic ideology."⁸⁸ A new national history was needed to uncover the providential nature of Pakistan's emergence as was some kind of Islamic research center.⁸⁹ The provinces were incapable of managing things and so "The Central Government should assume direct responsibility for the general planning and coordination of education in all fields."⁹⁰ However, it was "important to bear in mind" the rather distasteful "presence of the Hindu community in East Bengal" that constituted about one-third of that province's population.⁹¹ The caste Hindus were "wedded to the Bengali language" and represented "the hard core of resistance to the changes which we wish to introduce on the basis of our educational ideology."⁹²

Neither these ideocratic longings nor repressive legislation such as the Public Representative Offices Disqualification Act (PRODA) or the Public Safety Act (PSA) improved the fortunes of the ruling Muslim League. There was a failed communist-inspired coup⁹³ and a successful attempt on Liaquat Ali Khan's life in 1951. In March 1952, the interior secretary, G. Ahmed, submitted a note on the internal situation to Khwaja Nazimuddin, the new prime minister (1951-1953). The interior secretary reported

⁸⁷ Ibid., File No. 3(4)-PMS/50, "Correspondence with the Hon'ble Minister for Commerce and Education", 202.

⁸⁸ Ibid.

⁸⁹ Ibid., 203.

⁹⁰ Ibid., 213.

⁹¹ Ibid., 209.

⁹² Ibid.

⁹³ See National Documentation Center, Islamabad, Folder Twenty-Two, 1953. File No. 23(34)-PMS/53, Government of Pakistan, Cabinet Secretariat, Prime Minister's Branch, "Judgment in the Rawalpindi Conspiracy Case."

"a noticeable loss of public confidence in the Government" which was universally seen as "weak and, except at certain levels, far from competent."⁹⁴ The public mood indicated that Pakistan was "on the downgrade internally" since Liaquat Ali Khan's death.⁹⁵ Political and provincial disharmony had increased everywhere and while the only major trouble had occurred in Dhaka, the capital of East Bengal, which necessitated army deployment, "an undercurrent of restlessness" pervaded the federation.⁹⁶ The Muslim League, notwithstanding its dubious success in the recent Punjab elections, had "lost considerable ground", fractures had "developed everywhere" while the party machinery, never particularly efficient, had ground to a halt.⁹⁷ The cause of the malaise was the mindset of the politicians and their medieval attitude towards the acquisition and exercise of power:

The present idea of their obligations in the minds of most Members of the legislature seems to be either to seek advantage from the Government for themselves or their friends and relatives, or to advertise and exploit the supposed grievances of their constituents. Explanation and defence of Government policy and of its point of view on current problems do not find a place among the responsibilities of Party leaders and Members of the Legislature belonging to the Muslim League.⁹⁸

While the politicians at all levels used and abused the state as a personal estate, the provincial leaders had, additionally, adopted "an intensely parochial line irrespective of the interests of the country" or the central government, or even their own parties.⁹⁹

The "communist virus" had been checked by the government's actions following the uncovering of the Rawalpindi Conspiracy, though it remained fairly virulent in parts

⁹⁴ National Documentation Center, Islamabad, Folder Twenty-One, 1952. File No. 3(5)-PMS/52, Government of Pakistan, Prime Minister's Secretariat, "Correspondence with the Hon'ble Minister for Interior and States & Frontier Regions," 72.

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Ibid.

⁹⁸ Ibid., 74.

⁹⁹ Ibid.

of the urban East Bengal, particularly the University of Dhaka.¹⁰⁰ That said the greatest threat to Pakistan, which was spreading confusion and anxiety "in the minds of the general public" was "the parrot-like repetition by politicians of the slogan that Pakistan is an Islamic State."¹⁰¹ This kind of rhetoric was "fraught with considerable danger" and being "fully exploited by the enemies of Pakistan to discredit it abroad as well as by the obscurantist elements inside the country."¹⁰² The impression "among the intelligent section of the people" was "that talk of an Islamic State on part of the politicians" was merely a "device to keep themselves in power."¹⁰³ The politicians seemed "to be banking on reactionary forces for political support" which risked Pakistan "degenerating into the primitive levels of certain countries in the Middle East."¹⁰⁴ This suspicion had gained widespread acceptance due to "the ease and freedom with which it has been possible for orthodox Mullahs to make Pakistan a happy hunting ground."¹⁰⁵ Mosques and seminaries throughout Pakistan were being used to preach "superstitious and unenlightened religiosity" without any check, and it seemed that the state was "pandering to orthodoxy."¹⁰⁶ The politicians were playing a very dangerous game by trumpeting Islamic ideology and "raising expectations which, because they vary according to the prejudices and predilections of individuals or groups, would be impossible to fulfill."¹⁰⁷ It was ultimately suicidal for the modernist Muslims, whom the traditionalists considered

¹⁰⁰ Ibid., 76.

¹⁰¹ Ibid., 77.

¹⁰² Ibid.

¹⁰³ Ibid.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid., 77-8.

¹⁰⁶ Ibid., 78.

¹⁰⁷ Ibid., 80.

infidels, to pursue such a course of action and "there should be less talk of Islamic ideology and no encouragement whatever of orthodoxy in any shape or form."¹⁰⁸

The politicians did not take heed, but at least we know now that they were not ill-advised by the servants of the state. In the 1951 elections in the Punjab, the Muslim League used the state machinery and allied with the Majlis-i-Ahrar and Jamiat-Ulema-i-Islam, Pakistan (JUI-P), and secured a suspiciously heavy mandate in the province. Mian Mumtaz Daultana became the chief minister and was elected unopposed. His party members, however, soon plunged into speculation, hoarding, and wreaking havoc upon the food distribution system in order to manipulate prices in their favor as many of them were powerful landlords. The Ahrars thought it an opportune moment to renew their campaign to have the Ahmedis¹⁰⁹ declared non-Muslims. Soon, agitation spread in the province. Both Daultana and Nazimuddin encouraged the agitation. The former believed he could use it to put the center on the defensive and rally the provincial Muslim League behind himself, while the latter thought he could render his government above questioning or challenge by manipulating orthodox Islamic sentiment. By the end of July 1952, the Punjab Muslim League had voted two hundred and sixty-four against eight in support of the agitators' demand and Section 144, reluctantly imposed by Daultana in parts of the Punjab on the insistence of the Inspector-General Police, Qurban Ali Khan, was lifted. Nazimuddin tried to one-up the Punjab Muslim League and constituted an Islamic Advisory Board in which the ulema were invited to come and give their advice to the Basic Principles Committee of the Constituent Assembly. It was hardly surprising

¹⁰⁸ Ibid., 81.

¹⁰⁹ A religious sect that claims to be Muslim but denies the finality of the Prophethood. It was founded by Mirza Ghulam Ahmed (1835-1908) who claimed to be a prophet in his own right. Most Sunni and Shia Muslims believe the Ahmedis to be non-Muslims because of this deviation.

that the consequences for the politicians as a body as well as for the country were not long in the coming and proved disastrous and almost irretrievable.

2.3 The Fall

For senior administrators such as G. Ahmed and Qurban Ali Khan, the senior military commanders such as the Commander-in-Chief General Ayub Khan, the Area Commander Lahore, General Azam Khan, and senior bureaucrats turned politicians, such as Ghulam Muhammad, Ch. Muhammad Ali, and Iskander Mirza, the turn of events was cause for extreme concern. Indeed, no two religious scholars agreed "as to the definition of a Muslim" and by accepting the point of view of any one sect or scholar or school, one automatically became an infidel according to all the other definitions.¹¹⁰ It was a dangerous game to play in a diverse society like Pakistan for while today it was the Ahmedis, tomorrow, perhaps, it could be the Ismailis, or the Ahl-i-Hadith, or mainstream Shias, or the Deobandis or Barelvis, to say nothing of what would happen to the ten million plus Hindus in East Bengal, or the Parsi community of Karachi and Quetta.

By March 1953 the agitation had spun out of control. In the ensuing riots some three hundred were killed. On March 6 martial law was imposed in Lahore and the agitation crushed within hours. Daultana's ministry was dismissed and martial law remained in force for two months during which time everything from a crackdown on lawless elements to a public cleanliness campaign were conducted. On April 17, 1953, Ghulam Muhammad, governor general since Liaquat Ali Khan's assassination, dismissed Nazimuddin's government under Section 10 of the provisional constitution even though the prime minister had recently proven his majority by passing the budget.

¹¹⁰ Mohammed Munir, *From Jinnah to Zia* (Lahore: Vanguard Books, 1980), 46-7.

Nazimuddin's dismissal was Pakistan's first successful coup. Emboldened by the ease with which it was pulled off, Pakistan's senior civil servants and military commanders, took it upon themselves to restructure the nation and the state to produce uniformity, discipline, and progress. The question remained whether Pakistan would be a civilian bureaucratic dictatorship supported by the military or a military dictatorship supported by the civilian bureaucracy. Either way, invertebrate and self-seeking politicians would be welcome to join the officially patronized party and help keep up constitutional and democratic pretences. Within two years of Nazimuddin's dismissal the Constituent Assembly, the provinces of West Pakistan, and the higher judiciary, would fall before the application of executive power. April 17, 1953, thus marked the point at which Pakistan's politicians lost control of the administrative and military machine crafted under the leadership of Jinnah and Liaquat Ali Khan to enable Pakistan to survive in a state of siege. Except for brief and tragic interludes¹¹¹ control would not be restored to elected politicians. The mandarins and praetorians were now in control of the palace, the former more visibly than the latter. It is therefore to the ethos, evolution, and structure, of the civilian bureaucracy, in particular its elite cadres, that we now turn.

¹¹¹ 1972 to 1977 was a period of rule by an elected civilian government that exercised effective power over the state apparatus. Arguably, Nawaz Sharif's second term as prime minister from 1997 to 1999 could also be counted as a period of substantive rule by an elected government. Sharif enjoyed a two-thirds majority in the lower house and successfully dislodged the president, chief justice, and army chief, and replaced all three with his own favorites. His attempt to remove Musharraf from the post of army chief precipitated a military coup. In each case the elected civilian executive failed to understand when to stop.

CHAPTER THREE

MANDARINS

3.1 Imperial Nomocracy

The pre-British continental bureaucratic empires were organized along three key principles. First, the entire country was the personal estate of the ruler and thus the servants of the state were the ruler's personal servants. Second, the rulers were legitimized by divine sanction or official ideology that equated opposition with treason and blasphemy. Third, ultimate decision-making powers in all affairs, be they administrative, legislative, political, military, social, or economic, were concentrated in the hands of the supreme executive. Although this was the structure of the state and society that the British inherited in the course of their conquest of India, they made certain changes inspired by their own anomalous culture of power that found formal expression in the State of Laws and Enlightenment-inspired notions of order, progress and liberalism. These changes significantly altered the ethos and orientation of the central state in the subcontinent and reflected the British realization that in continental bureaucratic empires it was the quality of the officer corps of the state that determined the quality of governance.

The Anglo-Indian state was an imperial nomocracy. Successive acts and charters had increased the powers of the British Parliament over the East Indian Company between 1770 and 1833. After 1858, the Secretary of State for India acted as the cabinet's representative to the India Council, a body of senior officials with ultimate responsibility for government in India. Some of the more energetic viceroys, such as Curzon, felt aggrieved by the restrictions imposed upon them but all had to submit ultimately to its

oversight. A critical aspect of parliamentary control was that Indian accounts were laid before parliament annually and it appointed auditors as well.¹ The viceroy, six regular members, and the commander-in-chief of the Indian army as an extraordinary member constituted the vice-regal council within which the majority ruled subject to executive veto.² This council normally met once a week with its attention focused on issues of an inter-departmental nature, matters of policy, and important routine business, such as budgeting.³ Present at these meetings were the secretaries of the concerned departments. They not only prepared the ground for the meetings but gave advice, took note of decisions, and were responsible for implementation.⁴ Their autonomy and integrity were guaranteed by the fact they were from the covenanted Indian Civil Service owing their appointments to the secretary for state, not the viceroy, and thus substantially immune to executive whimsicality. They were also the leaders of a vast and varied administrative machine and the members of this elite corps were rotated between the center and one province in the course of their careers. The broad principle of administration was that the center would lay down the policies and general outline of important measures and leave the provincial administrations "to fill in the details by rules drafted by themselves, but approved by the Government of India."⁵

From 1853 onwards the civil service was recruited through open competitive exams, which completely superseded the system of nomination by powerful patrons. Curiously enough, the attempt to apply this principle to the civil service in England

¹ Courtenay Ilbert, *The Government of India* (London: Humphrey Milford and Stevens & Sons, Ltd., 1916), 138.

² Ibid., 138-9.

³ Ibid., 140.

⁴ Ibid.

⁵ *Report on the Administration of the Punjab and its Dependencies for the year 1875-76* (Lahore: Government Civil Secretariat Press, 1876), 21.

generated tremendous opposition. Stafford Northcote and Charles Trevelyan had urged the establishment in England along Indian lines "competitive examinations and a central board for recruitment to all home departments."⁶ Opposition to this scheme at the highest levels delayed its implementation in England until 1870 when

The Queen grumbled and, unusually in this phase was not brought into line on Gladstone's side by Prince Albert. "Where is the application of the principle of public competitions to stop?" she asked apprehensively, perhaps influenced by Lord John Russell's view that the "harshly republican scheme was as hostile to the monarchy as it was to the aristocracy."⁷

The application of this "harshly republican scheme" drew flak from many quarters. The opponents of the competitive recruitment system argued that academic brilliance was no guarantee of morality and physical fitness.⁸ The competition system "induced a man to regard his appointment as a right which made him not so manageable in public service" as compared to those "who received appointment as a gift."⁹ The exam did not test "culture" and allowed the "crammer" to replace the nominee who allegedly knew how to govern by virtue of aristocratic instinct.¹⁰ This nostalgia for the old system of patronage and pretension was utterly vitiated by the reality on the ground:

These young men, nominated in London under an outworn system of patronage, and once in Calcutta apparently under no official pressure to apply themselves to study, were signally failing to acquire a knowledge of the relevant Indian languages and laws, without which they would never do their jobs effectively. Fifty-six of the most recent batch in training had failed their examinations.¹¹

The competition system, though it took time to work out the technical problems, was fundamentally sound. While the patronage system produced three or four unfit candidates

⁶ Roy Jenkins, *Gladstone* (London: Macmillan-Papermac, 1996), 165.

⁷ *Ibid.*, 166.

⁸ George C. M. Birdwood, *On Competitions and the ICS* (London: W. J. Johnson, 1872), 5.

⁹ *Ibid.*

¹⁰ *Ibid.*, 9-10.

¹¹ Philips, ed., *The Correspondence of Lord William Cavendish Bentinck: Governor-General of India 1828-1835*, vol I, 1828-1831, xxiii.

for one or two good ones, the reverse could be said of the competition system.¹² The candidates who came through the competition were less extravagant, worked harder, and were more eager to perform.¹³ Later, when the age limit was raised and graduates filled the ranks of the civil service, the tirades launched against “crammers” and “bookworms” were replaced by fulminations against the “know-alls” who did not know how to deal with people.¹⁴ On balance, competitive recruitment generated a much higher median quality of civil servant.¹⁵

The ICS was the apex administrative cadre and exercised general control over a bureaucracy that was by the 1840s substantially Indianized at the middle and lower levels. Specialized services and departments existed for public works, health, education, policing, and certain kinds of taxation. The ICS members were expected to be generalists as well as experts on a diversity of subjects including law, history, politics, economics, local languages, ethnography, etc.¹⁶ They were also required to act as collectors of land revenue, magistrate, supervise the police and coordinate the activities of other departments. At several levels, ranging from local governments to the central government, they also played a quasi-political role, suggesting, advising and actively participating, in the formulation of policies. They were also academics who compiled, edited, translated and authored invaluable historical, ethnographic, legal and literary works.

Perhaps the ultimate function of the ICS was to set not just the intellectual but also the moral standard within the state. Not only did the ICS officers “have to be

¹² Birdwood, *On Competitions and the ICS*, 26.

¹³ Ibid.

¹⁴ David Gilmour, *The Ruling Caste: Imperial Lives in the Victorian Raj* (London: John Murray, 2005), 63.

¹⁵ Ibid., 68.

¹⁶ Ibid., 113-4.

incorruptible" they also "had to be above suspicion."¹⁷ In what was perhaps the ultimate manifestation of the British effort to instill the dual notion into the servants of the state that they were not agents of private enterprise, the spirit of which was intrinsically incompatible with public service, and that the country was not their personal estate, the ICS was held to the highest standards:

They were not allowed any interest, however innocent, in any commercial venture that might affect their professional conduct. If you were the Chief Secretary in Madras, your son could not own a coffee plantation in the presidency; if you were Political Agent in a native state, your relatives could not buy property there.¹⁸

Failure to comply resulted in disgrace, censure, suspension, and premature retirement. The high *esprit de corps* ensured that questionable behavior was quietly but effectively punished. In contrast to the loud and ineffective accountability meted out arbitrarily by earlier (and subsequent) rulers, the system worked:

At his retirement dinner in 1898 Sir John Edge remarked that during his years as Chief Justice of the Allahabad High Court he had received over a thousand letters, usually anonymous, abusing the ICS. Yet not one of them had suggested "even covertly that any member of the Covenanted Civil Service had acted from any corrupt motive in any matter." With this omission the authors of the anonymous letters had thus paid a great if unintended compliment.¹⁹

Such standards could not, of course, be maintained throughout the apparatus and the lower and middle ranks of the bureaucracy did continue to peddle influence, take bribes, and generally make life as miserable as possible for their real or perceived enemies. However, for many Indians the district officer was a paternalistic figure to whom one could appeal for redress and of whom one ought to be respectful and fearful. At the same time, the fact that the most powerful person in the district was a servant of the law, recruited through an open competition, educated in a university or a college, and

¹⁷ Ibid., 149.

¹⁸ Ibid.

¹⁹ Ibid., 148.

normally from a middleclass or upper-middleclass background, was a remarkably progressive feature of the British rule.

British Indian imperial nomocracy, however, was not democratic even though it provided the administrative foundations upon which a more representative order could be built. That it took as long as it did to develop these representative institutions must be understood in terms of the age. Victorian Britain was not a democracy and it was not until the late nineteenth century that most men got the right to vote.²⁰ It took till 1911 for the House of Lords to lose its power to veto taxation legislation and till 1928 for women to get the vote. One cannot with any pretence of objectivity accuse the British of failing to introduce a system of representative government in India that did not exist in their own country in the form taken for granted today until the last twenty or thirty years of their imperial rule.

In introducing the representative principle into the Indian environment, the great challenge was to Indianize the covenanted services while ensuring that the politicians elected at the local, provincial, and central levels, respected the statutory relationship between themselves and the servants of the state. This relationship was that the politicians ought to frame policies and supervise while civil servants advised and executed. By 1933, the provincial services were almost entirely Indian in composition, while the All-India Services were about one-third Indian. The travails of the years that followed had a negative impact on indianization and while provision was made for the special induction of Muslim candidates, the quota was not made with Pakistan in mind. Thus, in 1947, while the situation at the provincial levels was tolerable at all-India level, the situation in the covenanted services left much to be desired.

²⁰ A. N. Wilson, *The Victorians* (London: Hutchinson, 2002), 10.

3.2 A Few Civil Servants

Eleanor Roosevelt remarked in the course of her 1952 visit to Pakistan that she had "the impression that a small number of senior civil servants" were "quietly working themselves to death."²¹ Indeed, in the five years since independence four out of the thirteen secretaries had suffered coronary thrombosis and evidently a "secretary to the Government of Pakistan" was "not a good life insurance risk."²² Tragically, even as Pakistan's civil servants worked themselves to ill-health and incapacitation, the first of many blows upon the prestige, culture, and integrity, of the services had already landed. Justice Muhammad Munir, chairing Pakistan's first pay commission, declared:

We do not think it to be a right policy for the State to offer such salaries to its servants as to attract the best available material. The correct place for our men of genius is in private enterprise and not in the humdrum career of public service where character and a desire to serve honestly for a living is more essential than outstanding intellect. We cannot, therefore, prescribe our pay scales with the object of attracting to public service all the best intellect in the country.²³

Although the reflections of the first pay commission would be repeatedly disavowed by many subsequent commissions and reports the fact was that none of them succeeded in restoring the pre-independence situation as far as the remuneration of senior civil servants was concerned. It would, however, take a generation for the real impact of this kind of thinking to be felt upon the apparatus as a whole.

In the immediate aftermath of partition the higher bureaucracy was given the task of reconstituting the executive apparatus of the state. This task was entrusted to an initial corps of about one hundred and sixty civil servants, including about forty British officers

²¹ Rowland Egger, *The Improvement of Public Administration in Pakistan: A Report with Recommendations* (Karachi: Government of Pakistan Press, 1953), 24.

²² Ibid.

²³ *Report of the Pakistan Pay Commission*, Vol I (Karachi: Governor-General's Press and Publications, 1949), 27. Salaries were reduced: For Secretaries the reduction was from Rs. 4000 pm to 2500 pm. For Joint Secretaries, Rs. 3000 pm to 1800 pm; Deputy Secretaries, Rs. 2000 pm to 1500 pm; for Under Secretaries, Rs. 1500 pm to 1200 pm; and for Assistant Secretaries, from Rs. 1000 pm to 900 pm.

who stayed on, a few till the early 1960s. Of the Muslim officers, about half had served less than ten years and a mere handful qualified for senior positions. In effect, this meant that assistant and deputy commissioner rank field officers found themselves elevated to senior positions where their input on policy was required. Jinnah, though ailing, on half a dozen occasions between October 1947 and August 1948, directly addressed civil servants, and on many more occasions indirectly.

There is little evidence that indicates Jinnah "aimed at reforming the bureaucratic order inherited from the British Raj."²⁴ Jinnah wanted to retain the positive features of the British period which included an "apolitical, neutral and independent" civil service.²⁵ The politicians and bureaucrats would have to work together and respect each other's lawful autonomy and role in the state.²⁶ Moreover, Jinnah appreciated the role of the bureaucracy as an integrating agency "in a country where regional values persisted."²⁷ On April 14, 1948, at the Government House Peshawar, Jinnah informed the assemblage that whereas ministers and governments came and went the bureaucracy must stay on and thus constituted "the backbone of the state."²⁸ The weight borne by this backbone and the speed with which it managed to restore order, taxation, and communications, and even begin working on long-term development plans was stunning:

Approximately 74 positions above the rank of assistant secretary had to be filled in the provincial secretariats of Pakistan but only 22 Muslim provincial service officers had held such posts before, and it is doubtful if more than three-quarters of them were available to Pakistan. These facts speak more effectively than the explanation. Most developing states have faced the trauma of independence with acute shortage of administrative skill, but at least most states had inherited a

²⁴ Saeed Shafqat, "Quaid-i-Azam and the Bureaucracy" in K. M. Yusuf, ed., *Politics and Policies of Quaid-i-Azam* (Islamabad: National Institute of Historical and Cultural Research, 1994), 255.

²⁵ Ibid.

²⁶ Ibid., 257.

²⁷ Ibid., 258.

²⁸ Rana Saleem Iqbal, ed., *The Quaid on Civil Servants: Speeches and Statements, October 1947 to August 1948* (Islamabad: National Documentation Centre, 2007), 17.

national entity which merely changed its status from colony to sovereign nation. Pakistan had to create *de novo* a state from two culturally disparate, physically separate, strife-torn areas. The odds against success were enormous. To have constructed a nation for several years with about 50 experienced government officials of reasonable maturity in policy-making positions is a singular tribute to both the British administrative heritage and Muslim perseverance.²⁹

The center moved quickly to set up a civil service academy at Lahore in 1948 and began the induction of fresh CSP officers at a rate of twenty-five per year, laying great emphasis on their training. In addition to one year at the academy, the new entrants spent a year abroad at an English university and upon return spent another year being trained in the field, after which they became eligible for postings. Unfortunately, the "most important bulwark of ICS training – meticulous field training under an able deputy commissioner – collapsed under the pressure of greater urgencies."³⁰

These limitations and exigencies notwithstanding, by 1955, it was through this nucleus of about two hundred civil service officers plus about a hundred from other services of similar or greater competence (rising to about four hundred from CSP plus a hundred others by 1962-1963) that the elite executive culture of the British imperial nomocracy was preserved and transmitted to the public services at large. These services, by 1963, totaled some one million employees of whom about five thousand were officers.³¹

Extraordinary promotions combined with illegal demands for patronage by politicians, who had the power of transfer over officials and could inflict significant harm on the peace of mind and finances of subordinates, led to serious problems. Sometimes

²⁹ Ralph Braibanti, "Public Bureaucracy and Judiciary in Pakistan" in Joseph LaPolambara, ed., *Bureaucracy and Political Development* (Princeton: Princeton University Press, 1963), 380.

³⁰ *Ibid.*, 382.

³¹ Ralph Braibanti, "The Higher Bureaucracy of Pakistan", in Ralph Braibanti, ed., *Asian Bureaucratic Systems Emergent from the British Imperial Tradition* (Durham: Duke University Press, 1966), 243.

the pressure was applied in order to victimize other politicians. Writing to the prime minister on February 13, 1948, the governor of the Punjab stated:

Another very bad case of a different kind that has come to my notice is the treating of Khizar Hayat as an evacuee and the allotment of his zamindari rights in Montgomery to someone. This was done by the tehsildar on the orders of the DC. Whether the DC received orders from someone else I do not know, but he and Mamdot are very close as you know. Hence the indifference with which he treats Government orders.³²

On March 30, 1948, the governor informed the prime minister of "considerable apprehension" in the services about their protection against arbitrary treatment by politicians.³³ Arguing in favor of autonomous public service commissions appointed without ministerial input, the governor observed that "a democracy can function only if there is a strong and independent civil service."³⁴ It was imperative, and in the politicians' own interest, that "the tenure and conditions of service of members of the Commission, and to a lesser extent, of the staff of the Commission" be "excluded from the Ministerial field" for otherwise, threats, pay cuts, and changes in the tenure of members could "compel the members to do what" powerful members of the government wanted or resign.³⁵ Unless this was done, the government's attempts to secure the autonomy of the public service commissions "by providing for nomination by the Governor-General would be illusory."³⁶

Two months later, the governor brought to the prime minister's notice another case that illustrated the importance of administrative autonomy from political interference. In this case, members of the District Muslim League in Mianwali were threatening Manzur Ali, a Provincial Civil Service (PCS) treasury official to perjure

³² National Documentation Centre, Islamabad. Folder Three, 1948. File No. 2(2)-PMS/48, 23.

³³ Ibid., 44.

³⁴ Ibid.

³⁵ Ibid., 45.

³⁶ Ibid.

himself "before the Election Tribunal" that was "considering the Election-Petition of Nawab Mian Muhammad Hayat Qureshi against Mian Sultan Ali."³⁷ Manzur Ali was "a very competent officer" with a good service record.³⁸ In the 1946 elections Qureshi had lost to Sultan Ali by a margin of over four thousand votes, and subsequently leveled charges of official misconduct against the civil servants involved in making the arrangements. After an inquiry, the allegations were dismissed as baseless. Soon after independence, the case was reopened with ministerial backing and Qureshi demanded that Manzur Ali pressure Sultan Ali to give up his seat. If Manzur Ali refused, he would face suspension, humiliation, and dismissal from service.³⁹ Sadly, this kind of behavior, though ultimately self-defeating, was increasingly becoming the norm amongst politicians:

As for the local gentry, it has unfortunately become habit with Khan Amir Abdullah Khan, Chairman, District Board, Mianwali, and Malik Fateh Sher of Dullewala, in the Bhakkar Sub-Division; to make frequent recommendations in cases on behalf of their clientele. From their behaviour I suspect that these gentlemen are not only politically benefited, but otherwise too. Their recommendations are also generally couched in a language smacking of arrogance which might be enough to influence inexperienced officers. Both are prominent office-bearers of the District Muslim League.⁴⁰

A significant problem for civil servants was that many applicants would come to them with letters endorsed by politicians, in some cases even chief ministers and governors. These applications would ask for special consideration or respect or action to be given/taken upon the issue addressed. These ranged from admissions to academic institutions, employment in some government job, financial assistance, or other such things. In some cases the application was legitimate and dealt with favorably. This

³⁷ Ibid., 109.

³⁸ Ibid.

³⁹ Ibid., 113.

⁴⁰ Ibid., 114.

created the impression that the application was approved due to political endorsement. Many times the applicants would be turned away empty-handed, sometimes courteously, sometimes rudely, but often with reserve and aloofness. This created the impression that the civil servants were obstructive and instead of being servants of the people were acting as rulers (*naukarshahi*). In enough cases the politicians would sign the application without even reading it and then lay the blame on the civil servants if it did not meet with a favorable response. To put it differently, the politicians, who naturally wanted to please their clients and supporters, generally said "yes" to the applications brought before them. The civil servants in general, but especially the CSP and PSP, more often than not had to say "no". The politicians, who should have known better, rather than genuinely working to improve the lot of their constituents by framing sound policies and overseeing their execution, blamed the civil servants, while those rebuffed thought the civil servants were arrogant and unresponsive.

The essential problem was that the politicians did not appreciate the gravity of their predicament and the seriousness of their role. Making sound policies and laws to anticipate the needs and guide the development of a society undergoing rapid change is an immeasurably difficult task. If such a task were taken up seriously by politicians they would not have had the time or energy to engage in the politics of patronage. Equally, it was most dangerous for the politicians to be demonstrated consistently as intellectually and morally inferior to the servants of the state with whom they were in intimate contact and to whom they were supposed to provide leadership. Once the administrative and military machine became conscious of its own strength and managed to occupy senior political positions there could be no going back. Fortunately, the training of the British

period and the state morality that it bequeathed prevented the rising governing corporation of civil servants and military officials from physically exterminating the political class. Indeed, from April 1953 onwards, this governing corporation tried to preserve the semblance of constitutional democracy even as it assumed greater control of the nation's foreign, defense, and domestic policies.

3.3 The Governing Corporation

Between April 1953 and March 1969, Pakistan was ruled by a governing corporation that drew the bulk of its intellectual and moral strength from the Civil Service of Pakistan, the higher echelons of the military, and elements within the judiciary sympathetic to it. It was during this period that the first American advisors arrived in Pakistan and urged the state to reorient itself towards democracy and economic development. Apparently oblivious to the fact that by then the politicians and representative democracy had been eclipsed by the governing corporation, these consultants urged Pakistan to accept the imperatives of the new age that had dawned with the American discovery of the earth post-1945:

The basic problems surrounding present day administration in Pakistan arise largely from the fact that an administrative system born as an instrument of colonial policy has been carried over with but few modifications and utilized as the machinery for democracy...

The colonial system of government was probably fully satisfactory as an instrument for assuring public order, the swift administration of justice, the prompt collection of taxes and the maintenance of land records...

The major weakness of the present administrative system with respect to national development stems largely from the fact that Government is still substantially directed to the law and order function in its organizational, procedural, personnel and fiscal aspect.⁴¹

Another benefactor authoritatively declared that "All proposals for organizing the public administration must be tested in the crucible of their effectiveness in strengthening the

⁴¹ Bernard L. Gladieux, "Reorientation of Pakistan Government for National Development" (Karachi: Government of Pakistan, 1955), 2. Gladieux spent four months in Pakistan before submitting his report.

institutions of democratic self-government."⁴² The "most important guarantee of democratic institutions and representative government" was the "strength of the religious sentiments of the Pakistani people."⁴³ Sadly, Pakistan's civil service was "living in the past"⁴⁴ and had "a long road to travel" both "intellectually and emotionally" to adjust "to the fact that democratic self-government is politically-controlled government."⁴⁵ Politicians were the servants of the sovereign people for "to be elected and re-elected they must secure votes" which must be "cast by citizens."⁴⁶

These were more than mere words especially after American assistance and consultants became a regular feature of the post-1954 administrative landscape. By 1960, law, which used to occupy about three-fourths of the curriculum at the Civil Services Academy, was reduced to about one-third to make way for development subjects.⁴⁷ Thanks to American largesse, between 1954 and 1963, some "1200 officers have had direct contact with American public administrative technology".⁴⁸ Given that the CSP cadre ranged between two hundred and five hundred officers⁴⁹ and that the total number of officers from all services combined was around five thousand by the mid-1960s, it meant that about one in five officers was directly exposed to American tutelage. Braibanti noted with transparent satisfaction that "the most noteworthy characteristic of American-induced administrative training in Pakistan is the manner in which it has become

⁴² Egger, *The Improvement of Public Administration in Pakistan*, 1.

⁴³ Ibid., 3.

⁴⁴ Ibid., 7.

⁴⁵ Ibid., 9.

⁴⁶ Ibid.

⁴⁷ Braibanti, "The Higher Bureaucracy in Pakistan", 294.

⁴⁸ Ibid., 330.

⁴⁹ 332 in 1960.

accepted at the highest level of government, attracted some of the best talent, and has been absorbed by the elite cadre."⁵⁰

While foreign advisers insisted upon democratic development and the economic imperatives of the age, the governing corporation proved unable to bring a semblance of order to politics in the country. To the centralist bureaucratic mind, the turbulence and endless shifting of loyalties at the provincial and national levels were utterly repugnant. Something had to be done to stabilize the façade without, however, sharing real power with the politicians. The decision was thus taken and implemented in 1955 to merge the provinces and territories of West Pakistan into One Unit with its capital and secretariat at Lahore. The provincial assemblies were compelled to dissolve themselves through threats, intimidation, and unethical incentives. The constitution then pushed through the second Constituent Assembly which had equal representation for East and West Pakistan (forty each) acquiesced to the principle of parity between the two provinces as the basis for a unicameral legislature. The formula was put into effect by Muhammad Ali, formerly secretary-general to the federal government, now prime minister. The hope was that One Unit in West Pakistan plus inter-wing parity would allow for greater administrative and national cohesion, a more powerful state, and a more disciplined set of politicians. The thinking was that "Any territorial or other changes that would imperil national unity and solidarity and promote provincial, regional or local loyalties in preference to the supreme loyalty to the State should be out of the question, particularly in the formative years of our history."⁵¹ One Unit was the inevitable consequence of the "essential oneness and indivisibility of West Pakistan" generated by a "common historical heritage, a uniform

⁵⁰ Braibanti, "The Higher Bureaucracy in Pakistan", 331.

⁵¹ *Report of the Provincial Administration Commission, February 1960* (Islamabad: Printing Corporation of Pakistan, 1962), 6.

pattern of agricultural economy, dependence on the same water and power resources and deep cultural and social affinities of the people living in the province."⁵² The idea was that units, such as districts and divisions, even if artificial, become stable over time through a "natural process of association."⁵³ The administrative confusion that transferring many established centers of administration to Lahore entailed was compounded by the fact that "When postings of Secretaries for West Pakistan were considered, it was found that there were not enough officers of the requisite seniority [fourteen years of service] to fill all the posts."⁵⁴

The trouble was that it proved rather impossible to discipline the politicians – they could not be demoted, transferred, or controlled by writing stiff notes (if for no other reason than that they were not likely to bother reading what came their way). They could be disqualified under PRODA but then as soon as they became useful again the ban on them would be relaxed. The politicians also chafed under the domination of the governing corporation and did what they could, by way of transfer and denunciation, to put the administration on the defensive. The bureaucrats, for their part, were drawn into politics and interfered in areas that could safely have been left in the hands of political protégés. Finally, the conditions that had made possible the emergence of a governing corporation, namely the disintegration of the Muslim League and the absence of credible national political leadership, also ensured that no matter which factions or groups were rotated in and out of office, none succeeded in providing a semblance of governmental stability. One Unit in West Pakistan merely meant that provincial politics became more

⁵² Ibid., 7.

⁵³ Ibid., 14.

⁵⁴ 1955, File No. 256/CF/55, Government of Pakistan, Cabinet Secretariat, Cabinet Branch, "Standards for Appointments of Secretaries to Provincial Government", 1.

acrimonious and polarized between its proponents and opponents as the now defunct smaller provinces and regions tried to gang up against the Punjab's domination.

By 1956, the Muslim League was disintegrating and its members defecting to the new officially patronized Republican Party. In August, the prime minister tried to patch things up, but in the meeting of the Coalition Parliamentary Party his own party members refused to attend if defectors to the republican camp were allowed to participate. On September 8, 1956, Muhammad Ali resigned the premiership which was the sensible thing to do, given that he was a creature of the establishment and had no political legs of his own to stand on now that the president, Iskander Mirza, had ditched him. Bringing in H. S. Suhrawardy, a leading Bengali politician, as prime minister on the condition that he would leave foreign affairs and defense in Mirza's hands did little to stabilize the situation. While in the opposition, Suhrawardy had condemned the 1956 constitution for denying provincial autonomy, now he held that it granted all the autonomy ever desired. Soon enough, his wings on matters of domestic policy were clipped, his commercial and agricultural proposals undermined by Mirza and his republican allies. Forced out of power in October 1957, Suhrawardy's successor, I. I. Chundrigar lasted barely two months and was replaced by Firoze Khan Noon, the former premier of the Punjab.

Noon had not been much of a success in provincial politics and his ministry in the Punjab had ended disastrously. Towards the end divisions in his cabinet were "having an adverse effect on the administration as various factions in the Party were" using "Government officers for political purposes."⁵⁵ The governor was, consequently,

⁵⁵ 1955, File No. 111/CF/55, Government of Pakistan, Cabinet Secretariat, Cabinet Branch, Cabinet Meeting, May 21, 1955, Case No. 356/51/55, "Punjab Situation", 1.

authorized to take countermeasures.⁵⁶ A few days later, the interior minister informed the cabinet that Noon's ministry, now dismissed, "had decided to allot land to all Major-Generals in the Army, all Deputy Commissioners in the Punjab or their relatives and most of the members of the legislature" and also wanted to extend this facility to the higher judiciary.⁵⁷ The total value of this land grab designed to placate members of the governing corporation and the politicians was valued at over three hundred million rupees.⁵⁸ By October 1958, twenty-six out of eighty members of the national assembly had ministerial rank and more were expected to be added. Nevertheless, the opposition was gaining ground and it was likely that the clients of the governing corporation would lose the elections scheduled for March 1959. Chief Justice Muhammad Munir, in total disregard of his status as impartial adjudicator, advised President Mirza to hold the elections, let chaos take over and then proclaim an emergency.⁵⁹ Mirza, however, felt that his chance of remaining president after the elections was about five percent.⁶⁰ He therefore decided to abrogate the constitution, declare martial law, and nominated Ayub Khan, the army chief for seven years at this point, as the Chief Martial Law Administrator (CMLA). Three weeks later, Ayub Khan overthrew Iskander Mirza and assumed dictatorial powers. A new era, full of danger and opportunity, for the governing corporation, had begun.

⁵⁶ Ibid.

⁵⁷ Ibid., Cabinet Meeting, May 25, 1955, Case No. 371/52/55, "Dismissal of Noon Ministry", 1.

⁵⁸ Ibid.

⁵⁹ Craig Baxter, ed., *Diaries of Field Marshal Mohammed Ayub Khan, 1966-1972* (Karachi: Oxford University Press, 2007), 116. Ayub had dined with Munir on July 12, 1967, at which time and place he learnt of this.

⁶⁰ Ibid.

3.4 The Noble Sarkar

The civilian bureaucracy adjusted rapidly to Ayub Khan's leadership. Many of its senior members had known Ayub for years and had worked closely with him since he became army chief in 1951. There was undeniable improvement in the efficiency of the administration as politics receded into the background. Of the one thousand three hundred civil servants dismissed, retired, or disciplined by administrative tribunals, a mere thirteen were from the CSP cadre, and fifteen from the PSP cadre. Ayub, however, deprived the CSP of a year of training at a British university, effective from 1959-60, by which time all but one of the three hundred and thirty-two CSP officers had received this component of their training. That said, Ayub had a tremendous amount of respect for the higher bureaucracy, especially the CSP, and relied on their advice and assistance. He also used them in a political role, as part of the Basic Democracies scheme, and effectively placed his faith in their ability to deliver both order and progress. There was remarkably little opposition to the regime until 1964, which prudently decreed military courts were to "be of a limited number and should only deal with serious offences arising out of anti-state, anti-Martial Law and smuggling activities" while "All other cases should be tried by the civil courts."⁶¹

Ayub felt disheartened by the fact that "people in Pakistan expected the Government to do everything" which "was not a healthy attitude".⁶² People, in particular those in the rural areas, should "do some 'self-help' work" inclusive of "improving communications, digging and repairing water channels, running poultry farms,

⁶¹ 1958, File No. 651/CF/58, Government of Pakistan, Cabinet Secretariat, Cabinet Branch, Cabinet Meeting, December 18, 1958, Case No. 1152/71/58, "Trial of Martial Law offences by Magistrates; Procedure for Confirmation and Review of Sentences", 1.

⁶² 1958, File No. 595/CF/58, Government of Pakistan, Cabinet Secretariat, Cabinet Branch, Cabinet Meeting, November 15, 1958, Case No. 1020/61/58, "Self-help", 1.

gardening" and the like.⁶³ Back "in the old days" these activities were undertaken "by the villagers under the direction of the District Magistrate."⁶⁴ However, since 1947, political governments had "deprived the District Magistrate of all his authority and initiative."⁶⁵ It was imperative that immediate and suitable steps be taken "to restore the authority and initiative of the District Magistrate" so that "he would be in a position to undertake this job as in the old days."⁶⁶ Ayub's Basic Democracies were, under the commissioners, required "to continually stimulate people's interests in the general advancement and development of the country" and were perfectly in consonance with his "general concept" for the central government which was that it should be stronger and more effective but also leaner in terms of size.⁶⁷

Indicative of Ayub's faith in the CSP was the composition of the Administrative Reorganization Committee constituted by his government on December 12, 1958, "To review the organizational structure, functions and procedures of the Ministries and Departments as well as coordination between different tiers of the government".⁶⁸ The chairman was G. Ahmed while the members were A. R. Khan (CSP, Secretary Establishment), H. A. Majeed (CSP, Secretary Finance), N. A. Faruqi (CSP, Secretary Industries), M. Khurshid (CSP, Secretary Defense), Hamid Ali (CSP, Secretary Health), and M. Ayub (CSP, Director, Pakistan Industrial Development Corporation).⁶⁹ The committee had the temerity to launch a frontal assault upon the Bureau of National

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ 1959, File No. 467/CF/59, Government of Pakistan, President's Secretariat, Cabinet Division (Cabinet Branch), "Concept of the Future Central Government", 1.

⁶⁸ Report of the Administrative Reorganization Committee, (Karachi: Efficiency and O&M Wing, President's Secretariat, 1960), 1.

⁶⁹ Ibid.

Reconstruction (BNR) set up in December 1958 to project the policies of the government and "develop a character pattern essential for the creation of a national outlook."⁷⁰ The secretaries asserted that the BNR was redundant given that it performed tasks already under the direction of the Ministry of Information.⁷¹ It was recommended that the BNR's staff be reduced by half and it be reconstituted as a research wing of the Ministry of Information.⁷² Subsequent to the submission of the report in 1960 the BNR faded into obscurity and does not figure in the declassified files of the Ayub regime.⁷³

The CSP exercised a vise-like grip over practically all tiers of government and by 1964 nine out of ten secretaries at the center, nearly seven out of ten secretaries in the provinces, and three out of four divisional commissioners, were drawn from its ranks.⁷⁴ What this meant was that policy planning at the center, coordination with the provinces, and execution at the local level, were effectively in the hands of the CSP. From the Planning Commission and industrial development corporations, to public sector corporations (thirty-six of them by 1965), to the local governments, this elite within the elite came to exercise transcendental control of the state apparatus. When, in 1962, a batch of CSP trainees were sent to Kakul for military training they "protested so vehemently and exerted such political pressure that the scheme was abandoned."⁷⁵ The trainees objected that they were much older and better educated than the military cadets and that military discipline was useless insofar as their careers were concerned.⁷⁶ This episode provided "an index of the immense power and prestige of the CSP. Under a

⁷⁰ Ibid., 148.

⁷¹ Ibid.

⁷² Ibid., 148-149.

⁷³ It was evidently merged with the Ministry of Information.

⁷⁴ Braibanti, "The Higher Bureaucracy in Pakistan", 303.

⁷⁵ Ibid., 297.

⁷⁶ Ibid.

martial law regime, a group of some twenty-five young men, ordered to military training for a few months, succeeded in having this training scheme abandoned."⁷⁷

Under the Basic Democracies scheme, deputy commissioners effectively became district governors performing not only a multiplicity of administrative functions but also as political representatives for the president. Ayub's local government system depended on the "District Officers' initiative, leadership and advice" which imparted "vigour to all the development plans of the district."⁷⁸ The commissioners were the "strategic link" between the *sarkar* (state) and the *awam* (people), acting as exponent, interpreter, mediator, as well as executor, of the sovereign's will.⁷⁹ It was up to the CSP officer "to employ all his resources of intelligence, tact, and skill in human relation to get optimum co-operation" and "set a high example of work and conduct to inspire his colleagues in other Departments" as well as the "members of the public to be associated with the processes of Government."⁸⁰ The CSP was the living embodiment of what in earlier ages was referred to as the noble *sarkar*.

At a synoptic level the CSP played a critical and little understood role. Its strong corporate identity combined with deployment at the key levels in practically all tiers and departments of the state enabled it to form a buffer between the rulers and ruled and an umbrella under which the less prestigious and weaker services and specialists could operate. During military rule this function assumed even great importance as the CSP prevented, to a large extent, the exposure of civil society to direct contact with military personnel. As an extension of the same role, it also allowed all but the very senior layer

⁷⁷ Ibid., 298.

⁷⁸ *Report of the Provincial Administration Commission, February 1960*, 183.

⁷⁹ Ibid.

⁸⁰ Ibid., 183-184.

of generals from being exposed to the corrosive effects of politicization and ensured that the policy of insulation was able to continue at the day to day level. This aspect of the CSP's role was appreciated by the Constitution Commission established by Ayub, which argued that the "demarcation that has been kept up all along" between the civil and military functions of the state "should not be departed from."⁸¹ The Constitution Commission elaborated:

Parleys and discussion, which are the methods to be adopted by a civil officer in dealing with the mass of the people, are not expected of a member of the Armed Forces, who has to deal only with those who have, by a course of discipline, become really subordinate to him. A...Commissioner, on the other hand, cannot regard the people of his district in the same manner. He has to deal with them with great tact...From this point of view, his work is far more difficult than that of an officer in the Armed Forces of a corresponding rank. The very fact that an average military officer, when confronted with a question of complexity involving discussion of respective rights, would normally exclaim that he is a soldier and has no time or inclination for a debate, indicates the difference in the points of view of the services.⁸²

Evidently, Ayub agreed with the Constitution Commission and the induction of military officers into the CSP against a five percent quota was terminated by 1963.

The importance of the CSP was reinforced by the preference it received as the first choice in the public service examinations. About eighty percent of the aspirants put the CSP as their first choice, between ten and fifteen percent put the Pakistan Foreign Service (PFS) as the first choice, while a negligible percentage opted voluntarily for the remaining services. Sadly for itself, the CSP failed to play a proper leadership role vis-à-vis the rest of the bureaucracy. Instead, it assumed an odious air of superiority that was simply not justified by the actual differential between its own competence and that of the other services. Indeed, many members from the other services were demonstrably

⁸¹ *Report of the Constitution Commission, Pakistan, 1961* (Karachi: Government of Pakistan Press, 1961), 107.

⁸² *Ibid.*

superior to their counterparts in the CSP, while specialists felt aggrieved by the fact that they had practically no chance of rising to the top within their respective departments. Often enough, secretaries drawn from the CSP in charge of specialized departments of which they had little understanding or knowledge, took credit for the output of the specialists under them. As the CSP came to play a political role in manipulating the Basic Democracies, which Ayub made the Electoral College for the presidency, their impartiality and prestige suffered. The first serious rumblings of corruption in the higher bureaucracy, and of systematic nepotism, even at the most exalted levels, began to be heard. More ominously, an intra-bureaucratic polarization between the CSP and non-CSP, already evident before 1958, intensified. Prominence was a double-edged sword.

The Pay and Services Commission of 1959-1962 constituted under the chairmanship of Supreme Court Justice, A. R. Cornelius, voiced the opinions of those who fell outside the CSP cadre. While lauding the British administrative heritage and attributing to its liberal and constitutional tendencies the preemption of totalitarianism in the subcontinent, the Commission hit hard at the CSP. It asserted that the privileges, higher pay, accelerated promotions, and near monopoly of policy, coordination, and key executive positions across the board were great discrepancies as it was "wrong to suppose that the latter [specialists] have either inferior education or lower intellectual capacity."⁸³ Given changing circumstances the inferior position of all these services was far less acceptable and that "the concept of a 'governing corporation'" should continue to be adhered to was cause of "great discontent and discomfiture" in the specialized cadres.⁸⁴ Furthermore, now that economic development was the primary function of the state, the

⁸³ *Report of the Pay and Services Commission, 1959-1962* (Karachi: Government of Pakistan Press, 1962), 14.

⁸⁴ *Ibid.*, 14-5.

old law and order approach was obsolete and with it the generalist CSP was part of a colonial hangover. Indeed, "...the hope of the administration of the future lies in the 'administrative technocrat'" a professional "equipped with intellect, education, and ability to conceive of a plan of development, with the aid of modern techniques and machinery."⁸⁵

Even in the areas where the CSP were expected to exercise control and leadership (land revenue, magistracy, supervision of police), the system was patently prone to injustice. In the context of land revenue, the staff under the commissioner in his capacity as collector "carries the entire burden of that administration", but, as they belonged to the Class II (support staff), or Class I (Provincial Civil Service), they "cannot aspire to the post of Collector." The work was almost entirely theirs but credit went to the commissioner.⁸⁶ In the case of the magistracy a similar situation prevailed:

The trial of cases, and the management of a file of cases are tasks which involve expenditure of time and attention to detail...For these tasks the District Magistrate of today simply has not time, and the result is that they are performed by the Magistrates under the guidance and control of the Additional District Magistrate, who is a senior member of the Provincial Service. But the post of District Magistrate is available, in the ordinary way, only to the members of the CSP, and is occupied normally by comparatively junior members, with some 3 years to 10 years of service. Here again, there is denial of justice. The group of men, constituted into a service, who carry on the entire work, are denied the headship, even in this respect, in the district.⁸⁷

The commissioners' supervision over the police lead to numerous conflicts and the need for the retention of all these functions "in a single person, who was the agent of the ruling power" was no longer a valid approach now that "the strength of the

⁸⁵ Ibid., 16.

⁸⁶ Ibid., 53.

⁸⁷ Ibid.

administration is derived from the people.”⁸⁸ The Commission recommended the separation of the collectorship and magistracy, placing each under its own head, and the end to the domination of the secretariat posts by the CSP.⁸⁹ In a remarkable rhetorical flourish indicative of the degree to which American tutelage had infected the services, the Commission asserted that the supremacy of the law and order, public security, and land revenue administration, as the primary functions of the state, which were concomitant with the superiority of the ICS and IPS, the steel frame, were decidedly passé:

Law and order and public security must take, in Pakistan, the same position among the public affairs of the country as they occupy in other free countries, that is to say, not unimportant, but at the same time, not of super-eminent importance, so as to confer the status of rulers upon their officers. Something of that supereminence lingers on by the exclusive recognition of these two services as All Pakistan Services.⁹⁰

While the Pay and Services Commission of 1959-1962 operated under a large number of misconceptions, bore the undeniable mark of irrational foreign tutelage, misunderstood the French administrative system which it upheld as a model for Pakistan, and took law and order, public security, and land revenue administration for granted, the response of the CSP was equally misguided. Instead of taking heed that the nearly five thousand officers in specialist and technical cadres wanted a place in the sun and should be brought on board through timely concessions, the Commission's findings were shelved. In a sense, the CSP failed to appreciate that time was not on its side and that it ought to try and manage its decline. The fact was that there was simply too much to do and the tour de force of the first decade could not reasonably be sustained. Moreover, the CSP's power was increased and the cadre was converted into the backbone, nerve center,

⁸⁸ Ibid.,

⁸⁹ Ibid., 53-4.

⁹⁰ Ibid., 57.

and limbs, of the Ayub regime. This led to the "politicization of the services... Professionalism, competence and honesty, which were the hallmark of the British system, started giving way to cronyism, pliability, and dishonesty – both intellectual and financial."⁹¹ The rot had started at the top with senior officers going "to any length to please their superiors in order to remain near the seat of power."⁹² By 1969, the CSP had abdicated its leadership role to such an extent that its representatives on the Working Group on the Reorganization of the Public Service Structure in Pakistan withdrew and submitted a separate report.

The remaining members of the working group, unsurprisingly, dismissed the CSP as a relic of the nineteenth century and regurgitated all the by now stock arguments made by foreign experts that the basic function of the state was now development for which technocrats were required.⁹³ And indeed, development expenditures had risen from four hundred million rupees in 1951 to ten billion rupees in 1968-69.⁹⁴ This massive increase in government expenditure, ironically enough, fuelled both lopsided growth, inflation, and inter-wing disparity, which combined brought down the Ayub regime. Ayub's overthrow at the hands of his handpicked army chief, Yahya Khan, and the protest movement launched against him by political parties and agitators did not lead to any improvement. What followed was the break up of the country, the ascent of Zulfikar Ali Bhutto's Pakistan People's Party (PPP), and the unprecedented medievalization of the

⁹¹ Tasneem Ahmad Siddiqui, *Towards Good Governance* (Karachi: Oxford University Press, 2001), 11.

⁹² Ibid.

⁹³ *Report of the Working Group on the Reorganization of the Public Service Structure in Pakistan In Light of the Fulton Report* (Islamabad: Government of Pakistan, 1969), 2-3. The three CSP members, D. K. Power, Aslam Abdullah Khan, and Nusrat Khan, withdrew formed their own working group and submitted their own report, arguing against a separate officer for development.

⁹⁴ Ibid., 6.

state. Ayub Khan's resignation on March 25, 1969, made him the first, and most prominent, casualty of the massacre.

3.5 The Massacre

Unlike Ayub Khan, Yahya Khan thought that the state could be operated on the same principles as the military. After assuming power, Yahya shifted the center of administration from the presidency and federal ministries to General Head Quarters (GHQ) and established a Chief Martial Law Administrator's (CMLA) Secretariat staffed by military personnel. Underneath a lieutenant general, who headed the CMLA Secretariat, were two brigadiers. Below the brigadiers were officers of various ranks and designations. The cabinet assembled by the new regime comprised an assortment of political non-entities with Cornelius the solitary figure of national standing and repute in it, though he merely damaged his credibility through this association. Although a CSP officer continued to serve as the presidential secretary, he was out of the loop in most sensitive matters. The president and his advisers were convinced that Ayub Khan had been deceived and manipulated by the higher bureaucracy, especially the CSP, which took all the credit for the achievements of the regime and dumped all the blame on the military. Now, the military would assume direct control of the administration through the deployment of hundreds of military officers in the supervisory positions and take full credit for "sorting out" the mess the nation found itself in.

Amongst the first to be sorted out were three hundred and three senior civil servants. Though given a chance to defend themselves before tribunals, all these officials were purged, not necessarily for the abuse of power, but for their proximity, real or perceived, to Ayub Khan. Adding insult to injury, secretary and joint secretary level

officers found themselves at the receiving end of peremptory commands by military officers of inferior seniority and rank. The Yahya regime's "parade ground style"⁹⁵ and cavalier handling of national affairs "alienated the bureaucracy, which in any case was marginalized by the martial law administration."⁹⁶ The civil service, "thereafter, remained a passive critic of the regime, whose set-backs evoked sardonic jokes and derisive comments in civilian circles."⁹⁷

By April 1970, the great achievement of the governing corporation, One Unit in West Pakistan, was dissolved, and out of it the four provinces that presently comprise Pakistan constituted (or re-constituted). The other marvel of political engineering pieced together by the governing corporation, parity between East and West Pakistan in the national assembly, was done away with, and decisions about provincial autonomy were to be taken up by elected assemblies in the near future. Moreover, it would take a simple majority to effect changes in the constitutional set up after the December 1970 elections. Yahya's strategic mind had countenanced three contingencies:

...first, the most optimistic situation forecast by all the intelligence agencies was that no single party would gain an absolute majority in the National Assembly. This would enable the regime to manage a coalition of reasonable parties and personalities. Second, if such a coalition did not emerge, or if it did prove recalcitrant, the President could exercise his powers to reject the Constitution framed by the National Assembly; the Assembly would then stand dissolved and fresh elections could then be indefinitely postponed. Third, as a last resort, martial law could be revived with full force, if the first situation did not materialize and the second option was found impractical.⁹⁸

The price paid by the country for this remarkable exercise in self-deception was that in the December 1970 elections the secessionist Awami League secured a near

⁹⁵ Hasan Zaheer, *The Separation of East Pakistan: The Rise and Realization of Bengali Muslim Nationalism* (Karachi: Oxford University Press, 1994), 113.

⁹⁶ Ibid., 116.

⁹⁷ Ibid.

⁹⁸ Ibid., 122.

monopoly of seats in East Pakistan enabling it to command over one hundred and sixty seats in a National Assembly of three hundred and thirteen seats. In West Pakistan, with over eighty seats, the Pakistan People's Party emerged victorious. Having already been defeated politically, and in response to unmistakable signs that the Awami League was preparing for rebellion, the meeting of the new assembly was postponed and finally, in March 1971, a military crackdown began. The failure that followed, agonizingly well-documented and discussed in the declassified portions of the Hamood-ur-Rehman Commission's report, led to the secession of East Pakistan, and the transfer of power by Yahya to Zulfikar Ali Bhutto and the PPP on December 20, 1971. The next five and a half years provided a sordid reminder of the veracity of the dictum that life is rarely quite so bad that it cannot get worse.

Between December 23 and December 30, 1971, the chairman of the National Press Trust, the senior editor of the *Pakistan Times*, the chairman of PIDC, and the managing directors of Progressive Papers and the National Shipping Group, were dismissed under Martial Law Regulation (MLR). MLR-114 Removal from Service Regulation was soon unleashed on thousands of unsuspecting and substantially innocent civil servants. MLR-114 did not allow the accused the right of defense, something that Ayub and Yahya, the former sincerely, the latter as a mere formality, had conceded. Vaqar Ahmad, the Cabinet and Establishment Secretary, testified in November 1977 that when he advised in favor of a show cause notice for those about to be dismissed Bhutto informed him "that he did not believe in the *Anglo-Saxon sense of justice* and his Revolutionary Government would not accept any such suggestion."⁹⁹

⁹⁹ *White Paper on the Performance of the Bhutto Regime*, Vol. II, *Treatment of Fundamental State Institutions* (Islamabad: Printing Corporation of Pakistan Press, 1979), 122.

On February 5, 1972, Vaqar Ahmad asked the other secretaries to give him names of the corrupt and those reputed to be corrupt within nine days.¹⁰⁰ Excluding the Ministry of Finance, where the minister, Mubashir Hassan, took a keen personal interest and sent one hundred and six names, the rest yielded a mere twenty-seven.¹⁰¹ Bhutto was not pleased and so Vaqar Ahmad added two hundred and forty-five names on his own initiative while the Special Police Establishment when squeezed yielded a mere eighty-eight names with the qualification attached and that in some cases investigations were in the preliminary stages.¹⁰² Bhutto demanded more sacrifices though given Yahya's purge a few years earlier, it was highly unlikely that more than a fraction of those already rounded up were guilty of anything more than making personal calls from their official phones. The governors of the Punjab, Sindh, and the NWFP, along with Ghulam Mustafa Jatoi, all PPP leaders, were entrusted with the task of finding "necks that fitted the noose."¹⁰³

On March 12, 1972, "about 2000 public servants, who had normally attended office earlier in the day, heard on Radio/TV that they had been dismissed or removed from service, or reduced in rank, because they were corrupt, or inefficient, or both."¹⁰⁴ Six days later, over five hundred officers of the provincial services were dismissed or retired.¹⁰⁵ On April 18, twenty four judicial officers and, two days later, eight Intelligence Bureau (IB) officers, were dismissed.¹⁰⁶ The negative public reaction led the government to allow review petitions but of the nearly eighteen hundred received the bulk "were

¹⁰⁰ Ibid., 123.

¹⁰¹ Ibid.

¹⁰² Ibid., 123-4.

¹⁰³ Ibid., 124-5.

¹⁰⁴ Ibid., 122.

¹⁰⁵ Ibid., 128.

¹⁰⁶ Ibid.

never scrutinized" though exceptions were made "in the case of a few fortunate ones for whom recommendations were received from Mrs. Bhutto, Ministers, MNAs, MPAs or the like."¹⁰⁷

The 1973 Constitution did away with the security of tenure of public servants. Under the Civil Service Act of 1973, "a civil servant was totally deprived of the security of tenure the moment he rose above the level of Joint Secretary" which was precisely the point at which autonomy and security were most sorely needed.¹⁰⁸ A politically connected subordinate could easily overpower his superiors while the insecurity of the senior servants affected their impartiality and professionalism in dealing with both politicians and administrative subordinates. In the disciplinary code no mandatory inquiry into alleged misconduct was required if the investigating officer so determined.¹⁰⁹ The national and provincial assemblies could institute public service commissions which were now, at a statutory level, at their mercy:

The Public Service Commissions were reduced, in effect, to mere shadows of their former selves. The Federal Public Service Commissions Act, 1973, prescribed no qualifications for the members. It empowered the President, that is, the Federal Executive, to terminate the appointment of a member before the expiry of his term of office, and left the Commission with practically no function besides the conduct of tests and examinations. Its consultative functions did not extend to disciplinary matters.¹¹⁰

Meanwhile, the purges continued. On August 19, 1973, eight secretaries, one additional secretary, and seven joint secretaries, were arbitrarily retired without any noting on their case files – evidently the orders had been verbally issued.¹¹¹ In January 1975, two secretaries, three additional secretaries, four joint secretaries, and one deputy

¹⁰⁷ Ibid., 129.

¹⁰⁸ Ibid., 136.

¹⁰⁹ Ibid.

¹¹⁰ Ibid., 136-7.

¹¹¹ Ibid., 138.

secretary, were retired in a similar manner.¹¹² In 1976, a fresh batch of victims, one hundred and seventy-four in number, was identified by the Federal Investigation Agency (FIA) and Vaqar Ahmad issued the necessary orders and notices on October 16.¹¹³ Bhutto, according to Khaqan Mahmud, then Special Secretary in the Cabinet Division, wanted two hundred names for this particular purge.¹¹⁴ In the run-up to the 1977 elections "Letters were written to the Chief Ministers of the Provinces that they should prepare lists of persons who would be appointed to posts of DSPs, Inspectors, Sub Inspectors of Police, Tehsildars and Naib Tehsildars."¹¹⁵ Bhutto wanted to carry out another purge of officers in May 1977 though this was preempted by events.¹¹⁶ In concluding his statement, Vaqar Ahmed raised a question and answered it in a manner that Timurid *mansabdars*, slaves of the sultans, and servants of the ancient Indian monarchs, would have readily related to: "Before I conclude I must answer a question which is asked that why did I continue to serve in this environment. I was afraid that I would become a suspect and it is known what happened to suspects."¹¹⁷

In part fulfillment of his pledge to "break the back of the CSP", Bhutto instituted a number of administrative reforms. One of these was the Lateral Entry Scheme, which, at least in theory, would allow for the induction of highly qualified personnel at senior levels as the need arose. At the higher levels (officers plus senior-most support staff in Grade 16 and above), five thousand four hundred and seventy-six inductees were absorbed, with about two thousand eight hundred at the center and the rest in the

¹¹² Ibid.

¹¹³ Ibid., 141-2.

¹¹⁴ Ibid., 144.

¹¹⁵ Ibid., "Statement of Vaqar Ahmed, ex Cabinet Secretary", November 25, 1977, A-17.

¹¹⁶ Ibid., A-18.

¹¹⁷ Ibid.

provinces.¹¹⁸ Bhutto wanted to create a body of officials there were personally loyal to him and abjectly dependent on his favor for their elevation.¹¹⁹ Through them, the career bureaucrats could be controlled and marginalized. As lateral entrants of the "requisite type and qualification" could not be found in a manner consistent with the principles of merit and ethics, arbitrary methods were used to secure inductions.¹²⁰ Many of the candidates were simply political nominees with little idea of what was required of them as public servants. Others were outright in their malevolence towards, and contempt of, their colleagues and subordinates and felt themselves immune to the rules and regulations; in the contravention thereof they had been recruited. Most were demonstrably inferior to those recruited by the old system. Of course, a few were genuinely outstanding. By 1976, the discontent, rivalries, and demoralization, had gotten so out of hand that Bhutto decided to transfer the lateral entry scheme to the Federal Public Service Commission (FPSC) and fixed a ten percent quota for such recruitment. These tactical concessions did not mask Bhutto's inability to tolerate autonomous institutions or restrain him from issuing "direct orders to Provincial Ministers and officials."¹²¹ The tone for the entire administration was set by the prime minister's handling of "his home District of Larkana, which he made a Division" and where "senior officials took orders from no other person."¹²²

¹¹⁸ Ibid., 159.

¹¹⁹ Bhutto's approach towards the management of his party was the same. "Distrustful of his own party men, and particularly of the leftists in the organization, Bhutto himself systematically weakened the party and purged it of its cadre of activities and ideologists." This effectively turned the PPP "into an extension of the Bhutto family." Sayed Wiqar Ali Shah, "Pakistan People's Party: The Twin Legacies of Socialism and Dynastic Rule" in Subrata K. Mitra, Clemens Spies and Mike Enskat, eds., *Political Parties in South Asia* (London: Praeger Greenwood, 2004), 165.

¹²⁰ *White Paper on the Performance of the Bhutto Regime*, Vol. II, *Treatment of Fundamental State Institutions*, 159.

¹²¹ Rafi Raza, *Zulfiqar Ali Bhutto and Pakistan, 1967-1977* (Karachi: Oxford University Press, 1997), 265.

¹²² Ibid.

While arbitrary dismissals, appointments, and transfers, reduced the higher bureaucracy into a quasi-medieval instrument, the formal changes in the structure of the services, their remuneration, and nomenclature, shattered its flexibility and adaptability. Drawing inspiration in part from foreign authorities and in part from the 1970-1972 National Pay Commission¹²³ the principles of unity, equality, and functionality were adopted. The old system had about six hundred and fifty scales of pay spread across four classes. Class I was for officers, II for higher support staff, III for lower support staff, and IV for menial/unskilled employees. This was dismissed as being elitist and colonial, and a Unified Grading Structure with twenty-two the highest (secretary) and one the lowest grade (peon) tied to a standardized national pay scale that consciously tried to bring about equality between the higher and lower ranks was adopted. The inspiration, evidently, came from the United States with its eighteen grades of civil servants and Lord Fulton's committee in Britain, which advocated a similar system. The British tried the system at a few levels but soon abandoned it and reverted to their earlier system.

The problem was that the standardization of grades masked great chaos, wastefulness, and complexity. Yes, there were eighteen grades in the United States, but there were over nine hundred positions classified under a General Schedule. Within the ranks candidates competed for jobs as vacancies arose and were advertised nationally. "Such a job-oriented system has no concept of promotion, seniority, or transfers" with some civil servants getting stuck while others manage to jump around.¹²⁴ Moreover, in the United States, grades five through eighteen were for officers while there was no

¹²³ *Report of the National Pay Commission 1970-1972* (Islamabad: Government of Pakistan Press, 1972).

¹²⁴ 1985, Estt. Divn. U.O. No. 10(1)/84-CPI (Vol I), Syed Ijlal Haider Zaidi, Zaidi Papers, Secretary Establishment, Summary for the Prime Minister Mohammad Khan Junejo:- "Reorganisation of Services Structure", 4.

uniform pattern with several services, such as the foreign or postal services, "run on a career pattern", with individual states reserving powers to adjust the pay scales.¹²⁵ About a fifth of civil servants left the public sector each year for the private sector, leading to a fluid environment within the public services with continuous in take of fresh personnel.¹²⁶ Its manifest theoretical deficiencies aside, the entire reform exercise of the 1970s was vitiated by the lack of serious considerations given to its implementation by the reforms:

Our authorities could appreciate the requirements of a changeover from the career structure to a Unified Grading Structure. The responsible functionaries of Establishment Division were unaware of its full implications and the academics associated misled by a superficial knowledge of the working of this system in the USA...In producing a "unified grading structure" with such flourish, no time was wasted on comprehending the complexity or details of the American system.¹²⁷

The situation was further "aggravated by the framers through their lack of working knowledge of the provincial administration."¹²⁸ The provincial administrations were bewildered by instructions that made no sense and "failing to get a satisfactory response to their pleadings, decided to ignore the reforms almost completely."¹²⁹ The impact on the ethos of the civil service, already straining under the remorseless arbitrariness of a government whose leader pursued vendettas against junior officers caught smoking off-guard as he passed by was tragic:

The naïve application of some aspects of a Unified Grading Structure in the absence of a job evaluation of posts did away with the earlier discipline where the availability of a vacant post was a pre-requisite for recruitment and promotion. The administration went on a spree in notifying appointments in terms of "grades" with little regard to vacancies. Most civil servants genuinely

¹²⁵ Ibid., 5.

¹²⁶ Ibid., 6.

¹²⁷ Ibid., 5.

¹²⁸ Ibid., 9.

¹²⁹ Ibid.

believed it to be a new game without rules and harboured expectations of getting higher and still higher grades.¹³⁰

Whereas under the old system the "vertical ranking of posts" was "almost self-evident" within each individual service and "horizontal equivalence" relative to other services was irrelevant, the new system introduced rigidity, distortion and grade consciousness.¹³¹

The change of the services into occupational groups was the other measure pushed through during the Bhutto-era administrative reforms. Thus, for instance, the CSP was renamed the District Management Group (DMG), the PFS as the Foreign Affairs Group (FAG), the PSP as the Police Affairs Group (PAG), and so on and so forth. While some of the new names would have no doubt appealed to Bhutto's sense of humor, the manner in which they were constituted was typical of his regime's transparent contempt for law as well as his propensity for arbitrariness. Indeed, "the creation of these Groups had no legal backing...most were constituted through office memoranda disregarding the rules and in some case, even the constitutional provisions governing the services."¹³² The Tribal Areas Group (TAG) was created through a letter of the Secretary Establishment.¹³³ The Police group was brought into existence through a one page office memorandum.¹³⁴ The Secretariat Group was "created through a note from the Additional Secretary Establishment Division to the Establishment Minister."¹³⁵ The DMG was "the solitary Group which evoked some correspondence and discussion" which recognized its preeminence and indicated that it was "to include a hard core of handpicked and loyal

¹³⁰ Ibid., 10.

¹³¹ Ibid., 14.

¹³² Ibid., 12.

¹³³ Ibid.

¹³⁴ Ibid.

¹³⁵ Ibid.

persons and its control was to vest totally in the Federal Government."¹³⁶ Vaqar Ahmed actually argued in favor of prime ministerial nominations to the DMG in order to "develop a class of loyal civil servants" drawn from the "Powerful and influential families and sections in the countries" that could be "through this device, controlled."¹³⁷

The challenge of leadership was indeed control and it was here that the final element of Bhutto's administrative strategy came into play. The politicians as well as the bureaucrats "were controlled through a system of corruption, made possible by the nationalization of large and medium", and eventually small, concerns.¹³⁸ Broadly speaking, "The objective was to weaken and corrupt the various vested interests or groups through so-called reforms and corrupt practices."¹³⁹ Related to these were the fuelling of inflation by the government's populist measures and the employment of more and more people in the public sector. This put the squeeze on the salaries of government employees many of whom found themselves in direct control of productive assets. The government in turn took to rewarding its employees, like a regressive medieval state, in kind rather than cash. The general relaxation in routine accountability and oversight, combined with periodic purges created an atmosphere of tension and insecurity in which rationality dictated corruption. There was little incentive to be honest or hardworking if the government routinely bombarded its servants with illegal demands and then purged the ranks with brutal indifference to procedure, norms of justice, and, indeed, guilt or innocence. Civil servants, "likely to be pilloried whatever they do" sank as a collective

¹³⁶ Ibid.

¹³⁷ Ibid., 60.

¹³⁸ *White Paper on the Performance of the Bhutto Regime*, Vol. II, *Treatment of Fundamental State Institutions*, A-7.

¹³⁹ Ibid., A-8.

“into apathy and time serving” and the PPP government left in its wake “an ill paid and demoralized bureaucracy” which had lost both “its earlier efficiency” and integrity.¹⁴⁰

It was perhaps poetic justice that Bhutto's attempt to create an even more powerful bureaucracy that was loyal to him and deeply entrenched in every area of national life backfired. Bhutto inspired fear in his subordinates as no other Pakistani ruler had. So afraid were his servants that in the March 1977 general elections they went out of the way, even beyond Bhutto's instructions, in trying to secure a favorable outcome. The results gave the PPP over a hundred and fifty seats against the opposition Pakistan National Alliance's (PNA) thirty-six seats. When in 1970 the opposition had been divided into a dozen small parties and the PPP had won a substantial majority it was understandable. Under the First Past the Post (FPTP) election system, the single candidate with the largest number of votes would win the contest in the constituency in question. By the same token, with practically all the other parties united against the PPP, it would have been difficult for the government to secure more than a simply majority. In the opposition rebellion that followed it seemed as if Pakistan was once again poised on the brink of a civil war, this time along political rather than ethnic lines. Against this backdrop, Bhutto's handpicked army chief, Zia-ul Haq, with the support of the opposition parties, staged a coup on July 5, 1977. It was now up to those who had survived the massacre, often through sheer luck, to pick up the pieces of what was just a decade earlier enviously regarded as one of the finest administrative states in the developing world.

3.6 All the King's Horses and all the King's Men

¹⁴⁰ Syed Ijlal Haider Zaidi, Zaidi Papers, Summary for the Cabinet:- “Civil Service Commission Report”, 1981, 13.

What had been destroyed could not be restored by men of as limited vision and intelligence as Zia-ul Haq and his chief whip Ghulam Ishaq Khan. It was not that they were ill-advised. Indeed, the Zia era stands out in terms of the wisdom, insight, and diagnostic capacity of the higher bureaucracy as evidenced by Ijlal Haider Zaidi's summaries and exhortations, the philosophic and self-critical perspective of the 1986 Committee for the Study of Corruption,¹⁴¹ or the synoptic and yet immensely detailed, *Government and Administration in Pakistan*.¹⁴² The principal achievement of this period (1977-1988) was stability. Flowing from this, there was a partial restoration of the earlier ethos; no purge of officials was carried out, technical improvements were made in the training of officers, a quantitative evaluation system, and de facto security of tenure for most senior executives. The higher bureaucracy benefited from Zia's willingness to listen to and learn from his subordinates about, for instance, the difference between the political states of North America, Britain, and Australia, and the administrative states prevalent in nearly all other parts of the world. Equally important was Zia's refusal to blindly try and undo the administrative reforms of the 1970s and his effort to try to make them work as best as possible. The administrative consolidation was made possible in part by Zia's ability not to get easily offended as well as a willingness to reward loyalty with trust and the retention of the services of his closest associates. Zia also regarded the higher bureaucracy in general, but the DMG in particular, as representing the ablest members of the state and society, and though a military quota against vacancies was established, the total number of inductees was negligible.

¹⁴¹ "Report of the Committee for the Study of Corruption, 1986", (Islamabad: Cabinet Secretariat, Establishment Division, 1986).

¹⁴² Jamilur Rehman Khan, ed., *Government and Administration in Pakistan* (Islamabad: Pakistan Public Administrative Research Centre, O&M Division, Cabinet Secretariat, Government of Pakistan, 1987).

Zia was also quite comfortable with the centralizing tendencies of his predecessors. While the higher bureaucracy recovered some of its "relative autonomy of ethos and structure"¹⁴³ the paramount importance of the secretariat¹⁴⁴ was vigorously asserted. All told, the state comprised forty-one divisions, six secretariats, and numerous attached departments, subordinate offices, corporations, etc., bringing the total number of components to two hundred and sixty-eight.¹⁴⁵ In the federal government, of one hundred and twenty thousand employees, about ten thousand, or eight percent, were officers in grades seventeen through twenty-two.¹⁴⁶ Whereas in 1947, a secretary, corresponding to grade twenty-two, drew a monthly salary of four thousand rupees and a peon, equivalent to grade one, drew fourteen rupees a month, in 1981 the former drew a maximum monthly basic pay of eight thousand four hundred rupees while the latter drew eight hundred and sixty rupees per month.¹⁴⁷ Thus, since independence, the pay of the officers had doubled or trebled, while the pay of the lowest staff had increased sixty fold. This emphasis on equality was a natural outcome of the 1972-1973 reforms and meant that while previously the officers were well-paid and the lower staff poorly paid, now everyone was poorly paid and dependent upon the provision of housing, transport, plots of land, and subsidized utilities, by the state. The reduced financial independence of the higher bureaucracy made them more corrupt, servile, and inefficient:

In fact many of the past controversies like "generalist versus specialist" have been overtaken by events. They are in any case peripheral to the stark reality: the continual erosion in real pay and pension may soon divide the civil services between the corrupt and the destitute. The latter may even now be no

¹⁴³ S. M. Haider, "The Political and Constitutional System of Pakistan", in Jamilur Rehman Khan, ed., *Government and Administration in Pakistan*, 16.

¹⁴⁴ *Ibid.*, 14.

¹⁴⁵ I. A. Imtiaz, "Organization, Structure and Working of the Federal and Provincial Government in Pakistan", in *Ibid.*, 57-58.

¹⁴⁶ Agha Iftikhar Hussain, "The Civil Services", in *Ibid.*, 186.

¹⁴⁷ *Ibid.*, 147.

exaggeration for many of our pensioners. In the circumstances, attainment of professional excellence remains a goal only for a small and shrinking circle. This is reflected even in our intake: government service as a career hold little attraction for bright persons and the new amongst them who join, do so for the wrong reasons.¹⁴⁸

It was highly "unusual for any government to advertise its preference for the mediocre" as the first Pay Commission had done.¹⁴⁹ Successive regimes, including Zia's own, "failed to anticipate the graver dangers of mediocrity succumbing to greed."¹⁵⁰ The attempts to economize, equalize, democratize, and functionalize, produced "neither economy nor efficiency" where both would have been better achieved through a combination of proper remuneration, due prestige and enough challenging work.¹⁵¹ In a developing country it was even more important for the state to draw the best into its ranks or while in the morning a civil servant "may be explaining the objectives of his organization to a foreign expert" later that same day he may "find himself explaining policies to a venerable gentleman mentally living in the 11th century."¹⁵²

Pakistan's rulers were "carried away by the slogans denigrating the law and order arm" and lauding development.¹⁵³ They failed to understand, as did many civil servants, that an independent country experiencing rapid and often unwholesome socioeconomic change needed "even more stable law and order conditions" than "the subjects of a colonial power."¹⁵⁴ The assertion of national sovereignty as well as the fulfillment of the duty of the state to provide basic social and economic services was inextricably linked to

¹⁴⁸ Zaidi, Zaidi Papers, "Reorganisation of Services Structure", 33.

¹⁴⁹ Zaidi, Zaidi Papers, "Civil Services Commission Report", 14.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Ifikhar Hussain, "The Civil Services", 188.

¹⁵³ Syed Ijlal Haider Zaidi, Summary for the Cabinet:- "Provincial Administration", 1981, 18.

¹⁵⁴ Ibid.

the rigorous and progressive collection of taxes.¹⁵⁵ While the core functions of the state were neglected and left to fend for themselves within the framework of an increasingly dysfunctional nineteenth-century psychological and material infrastructure, tens of billions of rupees were pumped into development without appreciating the need for proper and effective supervisory and inspectorial controls.¹⁵⁶ While, for instance, the population of the territories comprising Pakistan quintupled between 1901 and 1981, "The administrative units, especially in the Punjab and Sind" remained more or less the same even as new regulatory functions stretched the administrative resources to the breaking point:

The results are there for all to see. The general administration is gasping for breath and may collapse unless urgent and imaginative steps are taken to resuscitate it. The development administration is in no better shape notwithstanding the generous financial inputs.¹⁵⁷

The consequences of this cavalier treatment of the essential functions of the state were most tangibly felt in the countryside where, in the 1980s, some seven-tenths of the population still lived. Land revenue administration was area of state activity with which "more people came into contact...than with any other."¹⁵⁸ And yet, it had hardly ever been discussed as a vital area of administration in its own right.¹⁵⁹ The Committee on Revitalization of Revenue Administration observed:

It is generally felt, both in public and government circles, that the Revenue Administration has deteriorated a great deal during the last twenty to thirty years. We found enough evidence to confirm this view...it is largely attributable to the prolonged neglect of this vital area of administration by the Government itself.¹⁶⁰

¹⁵⁵ Ibid.

¹⁵⁶ Ibid., 19.

¹⁵⁷ Ibid.

¹⁵⁸ *Report of the Committee on Revitalization of Revenue Administration*, Vol 1, July 1978 (Islamabad: Government of Pakistan, 1978), 3.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid., vi.

Rural folk routinely faced delay, inefficiency, corruption, and the tyrannical behavior of petty officials¹⁶¹ with occasional appeals to the increasingly deskbound commissioners who simply did not have adequate time to invest in land revenue administration. Indeed, land revenue administration, like law and order, "seems to us to be *passé*", "status-quo", and "anti-development."¹⁶² Neglect has meant that "at any given time in most villages, there would be scores of cases of disregard of law resulting in ejectments, grabbing of facilities, misuse of credits, etc."¹⁶³ The reaction of people to the state machinery in the rural areas varied from "total submission, even to illegal demands" to "cold imperviousness" with practically no cooperation and understanding.¹⁶⁴ The irony was that whereas since independence "the district and divisional administrations" had become far more powerful in terms of the patronage and resources at their disposal,¹⁶⁵ they had also become more arbitrary, personalized, and corrupt. Indeed, no event could "occur in the district of which it" was "not the duty of the Deputy Commissioner to keep himself informed and supervise its operation where necessary."¹⁶⁶ The district administration was now "a rural development administration" with DMG probationers sent to the Pakistan Academy of Rural Development to be trained in the latest administrative techniques.¹⁶⁷ The elected local councils established by Zia were practically powerless against the bureaucracy which, especially its DMG component, acted "as the eyes and ears of the

¹⁶¹ Ibid., 3.

¹⁶² Abdul Qayyum, "Land Revenue Administration", in Jamilur Rehman Khan, ed., *Government and Administration in Pakistan*, 318-319.

¹⁶³ Ibid., 329.

¹⁶⁴ Ibid., 341.

¹⁶⁵ S. K. Mahmud, "District Administration", in Ibid., 215.

¹⁶⁶ Ibid.

¹⁶⁷ Ibid.

Government and the Secretariat Departments.”¹⁶⁸ Unfortunately, the relative stability¹⁶⁹ of the Zia era was not used to push through any substantial systemic changes and with his death in a mysterious plane crash in August 1988 a greatly weakened and compromised political class formally reassumed control of a bureaucracy that desperately needed creative and strong leadership.

3.7 The Final Assault

It got neither. Instead, for eleven years (1988-1999) the system floundered for lack of leadership and little attention was paid to its improvement. Not even its pay scale was revised after 1994. In the mean time, different parts “of the country were being administered by the whims and idiosyncrasies” of local notables “whose sole aim was to perpetuate themselves in offices of benefit.”¹⁷⁰ Members of the national and provincial assemblies “were allocated their own quotas for jobs” leading to unabashed cronyism at the middle and lower levels.¹⁷¹ The already serious problems of delinquency, incompetence and pliability spiraled out of control while “a clique of corrupt courtiers” enveloped those exercising power in Pakistan’s increasingly “medieval ruling culture.”¹⁷² These influence peddlers “became the link between the rulers and the ruled” and were embedded in the “network of patronage” arising out of an electoral system that was, and is, “basically clannish”.¹⁷³ The marginal recovery in terms of the “neutrality, independence and non-partisanship of public services” made under Zia collapsed in the

¹⁶⁸ 1978, No. 57/1/MLA, Note by General Zia-ul Haq, January 18, 1978, addressed to all Martial Law Administrators (MLAs), governors and chief secretaries, cited in *Report of the Committee on Revitalization of Revenue*, Vol. 1, July 1978, 10.

¹⁶⁹ Azhar Hassan Nadeem, *Pakistan: The Political Economy of Lawlessness* (Karachi: Oxford University Press, 2002), 74.

¹⁷⁰ *Ibid.*, 76.

¹⁷¹ Siddiqui, *Towards Good Governance*, 37.

¹⁷² *Ibid.*

¹⁷³ *Ibid.*

face of unrestrained political patronage.¹⁷⁴ The "persistent interference from the elected representatives" in the transfers and promotions of officials high and low allowed "unscrupulous and dishonest bureaucrats" to rise and reinforced a pervasive "culture of corruption."¹⁷⁵ Such arbitrary acts eroded to a very considerable extent the "autonomy of all departments" and adversely impacted the district administration.¹⁷⁶

While elected representatives eagerly "helped themselves to public funds and assets" and ignored "any rule of law or moral probity" the administrative machinery became ineffective.¹⁷⁷ Across the length and breadth of the country "authority seems to have eroded under the weight of the prolonged politicization" of the higher bureaucracy.¹⁷⁸ The state's failure "in its most basic and minimal task: providing security of life and property to its citizens"¹⁷⁹ understandably fuelled a crisis of confidence:

The administrative decline has left citizens without the kind of order, security, and justice they had previously been used to. At this institutional level too, the system has become unresponsive to public needs, and therefore dysfunctional. The collapse of law and order in many parts of the country is the most deleterious but inevitable consequence of this weakening of administrative efficiency.¹⁸⁰

Both the PPP and Pakistan Muslim League (PML) governments engaged themselves in the "often senseless removal of officers" from posts rendering them Officers on Special Duty (OSD) for long periods.¹⁸¹ Out of turn promotions to personal favorites, such as Nawaz Sharif's decision shortly before he was overthrown to promote

¹⁷⁴ Ibid., 200.

¹⁷⁵ Rasul Bakhsh Rais, "Building State and Nation in Pakistan", in Charles H. Kennedy, Kathleen McNeil, Carl Ernst, and David Gilmartin, eds., *Pakistan at the Millennium* (Karachi: Oxford University Press, 2003), 11.

¹⁷⁶ Ibid.

¹⁷⁷ Maleeha Lodhi, *Pakistan's Encounter With Democracy* (Lahore: Vanguard, 1994), 18.

¹⁷⁸ Ibid., 21.

¹⁷⁹ Ibid.

¹⁸⁰ Ibid., 63.

¹⁸¹ Mushahid Hussain and Akmal Hussain, *Pakistan: Problems of Governance* (Lahore: Vanguard Books, 1993), 85.

his Additional Secretary Foreign Affairs to full secretary rank and send him as ambassador to Washington, combined with more systematic attempts, such as Benazir Bhutto's Placement Bureau (1989) meant to circumvent established procedures for induction, further demoralized the bureaucracy. Such "arbitrary actions generated a lot of resentment"¹⁸² and increased the reluctance of officials to take decisions at their own levels. Iqbal Akhund, a former diplomat who served as Benazir Bhutto's National Security Adviser described what he saw during her first term as premier:

Ministers were besieged in their homes from morning to night by petitioners, job-hunters, favour-seekers, and all and sundry. It was the same inside the National Assembly, where every minister's seat was a little beehive with members and backbenchers hovering around and going back and forth with little chits of paper. How the ministers ever got their official work done is a mystery, but in any case policy took a back seat to attending to the importunities of relatives, friends, and constituents.¹⁸³

The cavalier attitude towards policy-making manifested itself in the cabinet's response to a policy paper prepared by the Ministry of Labor on overseas employment. The cabinet ministers were least interested in applying their minds to questions of policy and focused on the employment of a thousand temporary workers for the annual pilgrimage to Mecca and assigned government parliamentarians quotas of twenty jobs each.¹⁸⁴ Benazir Bhutto was personally inclined to favor those who had made sacrifices during the Zia years but the amount of pressure for patronage was so great that the new government behaved in a manner that was "unmitigated even by the pro-forma respect for rules and regulations shown by the regular bureaucracy."¹⁸⁵

¹⁸² Ibid.

¹⁸³ Iqbal Akhund, *Trial and Error: The Advent and Eclipse of Benazir Bhutto* (Karachi: Oxford University Press, 2000), 53.

¹⁸⁴ Ibid., 78.

¹⁸⁵ Ibid., 77-8.

Nawaz Sharif was particularly notorious for his propensity to "rule by verbal order" and "monarchical-style of governance."¹⁸⁶ Combined with his lack of a proper body of advisers "publicity" prevailed "as substitute for policy."¹⁸⁷ His immediate successor, Moeen Qureshi, Pakistan's interim prime minister in 1993, frankly admitted that the "Government was being used as an instrument of political patronage" and "being run as a feudal estate rather than as a representative government."¹⁸⁸ The World Bank executive turned interim premier, however, betrayed his meager understanding of what a state is and ought to do when he described the highpoint of his term as the increase in utility prices and biggest disappointment as his "inability to have done as much as I would have liked to, for women."¹⁸⁹ Soon after his departure things continued as before with arbitrary transfers and endless politicking combined with clever tactical decisions bringing the administrative system to its knees:

In many ways it appears that Pakistan has reached a stage of institutional exhaustion...In spite of a large number of over-staffed departments at the federal and provincial levels, *ad hocism* reigns supreme...As one goes down to the district and local level, one finds that the government hardly exists.¹⁹⁰

Arbitrary "changes in the tenure of officers", uneven and over-rapid promotions without reference to merit, greatly "reduced the level of professional maturity and experience" of the higher bureaucracy.¹⁹¹ One of the clearest indicators of the "sharp decline in the intellectual caliber of the civil servant"¹⁹² was that the district officers "no longer" prepared "literature of great historical and administrative value like the District Gazetteers, Settlement Reports, and Codes of Customary Laws" and stopped "doing

¹⁸⁶ Lodhi, *Pakistan's Encounter with Democracy*, 243-4.

¹⁸⁷ *Ibid.*, 245.

¹⁸⁸ *Ibid.*, 44.

¹⁸⁹ *Ibid.*, 43.

¹⁹⁰ Siddiqui, *Towards Good Governance*, 11.

¹⁹¹ Mohammad Yasin, ed., *District and Police Systems in Pakistan* (Lahore: Vanguard, 1999), 20.

¹⁹² Mushahid Hussain, *Pakistan: Problems of Governance*, 11.

extensive field work.”¹⁹³ Under a succession of political governments the “power exercised by politicians, feudal lords” and other influential persons had a “baneful” impact on the administration.¹⁹⁴

In this administration, the DMG, owing to the continued concentration of land revenue, magisterial, and police supervisory powers, became the preeminent instrument through which national and provincial politicians exercised power in their constituencies. These politicians were by and large hostile to elected local councils, which died natural deaths in the early 1990s. This meant that in many ways, while the district administration had to please a few hundred more powerful politicians, it did not have to submit to the caprices of thousands of local representatives or take them on. Interestingly, even without the reservation of posts, the DMG’s importance in the eyes of politicians was resented by the other services. The perception that it was the key component of the higher bureaucracy continued to persist and was at least in part validated by reality on the ground.

As Pakistan edged steadily towards bankruptcy, theocracy, and state failure, the military was called in. In the mid-1990s it was used to restore the writ of the state in Sindh. In the late 1990s it was tasked with the carrying out of the census and the collection of electricity bills. This was a key indicator that the civil administration had failed even in the performance of its simplest functions. Thus, when the military took over on October 12, 1999, it faced a new challenge. Not only were the political institutions exhausted, as had happened before in the 1950s and 1970s, but this time, the administrative institutions were also running on vapor. Previously, the military had relied

¹⁹³ Yasin, ed., *District and Police Systems in Pakistan*, 20.

¹⁹⁴ *Ibid.*, 22.

extensively on the services, support, and guidance of the higher bureaucracy, which in many ways mitigated the severity of military rule and prevented the armed forces from being drawn excessively into the administration. This time, however, the praetorians decided that the mandarins were beyond redemption and decided to assume direct control of the administration:

The civil service is effectively controlled by the DMG. The group has close relations with international donors...Other groups in the public administration chafe under the control of one group and would welcome a democratization of civil service structure. The end of the domination of the bureaucracy by one group is a necessary pre-condition for the attainment of administrative power by the Army and the creation of conditions for national reconstruction.¹⁹⁵

Indeed, the higher bureaucracy led by the CSP/DMG served as the great administrative restraint on military rulers and was able to assert its intellectual and moral superiority time and time again, often for good, sometimes for ill, over their counterparts in the military. Yahya and Bhutto between them succeeded in breaking the back of the administrative elite which, they failed to realize in time, was their own best guarantee, to the extent that such guarantees exist in power politics, of security, stability, and success.

On August 14, 2001, a new local government scheme with elected *nazims* as the heads of the districts with overall control over the district bureaucracy were constituted. Now the district administration, under the coordination of District Coordination Officers (DCOs) who replaced the deputy commissioners and the control of "grassroots representatives" was thrown into chaos and confusion from which it has not yet emerged. Ironically, the critical element that is allowing this system to function at all is the fact that the coordination officers, drawn from the DMG, have become more powerful vis-à-vis the other departments even as their magisterial and police supervisory powers have been

¹⁹⁵ "Structural Analysis of National Reconstruction", National Reconstruction Bureau (NRB), Islamabad, May 27, 2000. Cited in *Devolution in Pakistan: Reform of Regression* (Islamabad: International Crisis Group, 2004), 7.

taken away. The monitoring committees set up to check the *nazims* and administration “exist mostly on paper” while the DCOs, as the heads of the District Development Committee which can approve schemes up to five million rupees, have tremendous powers of patronage.¹⁹⁶ Not surprisingly, the level of corruption has increased, while local infrastructure in terms of education, health, and social services has declined and the administration is utterly politicized.¹⁹⁷ There has also been a multiplication of bureaucratic posts with, for instance, separate officers for different kinds of education, and with this “Coordination has grown worse” than under the old system where the divisional and deputy commissioners had powers of enforcement under law.¹⁹⁸ For instance, prior to devolution, the deputy commissioner had powers to control prices of food, settle property disputes, and supervise the police. Now, local government officials “find it nearly impossible to enforce their writ without the enforcement powers previously exercised by the executive magistrates backed by the police.”¹⁹⁹

Even those who were initially eager participants in the devolution and decentralization exercise have, five years too late, come to appreciate “the institutional anarchy that results from the parallel systems for local government and hence the non-rational jurisdictions that are currently in place.”²⁰⁰ Ominously, whereas under the old system the most powerful official in the district was a university-educated professional from a middleclass background, now the districts are headed by landlords immersed in local rivalries and traditions with, on average, a high school level of education (eleven-

¹⁹⁶ Ibid., 17.

¹⁹⁷ Ibid., 17-8.

¹⁹⁸ Ibid., 15.

¹⁹⁹ Ibid.

²⁰⁰ Shahruxh Rafi Khan, Foqia Sadiq Khan and Aasim Sajjad Akhtar, *Initiating Devolution for Service Delivery in Pakistan: Ignoring the Power Structure* (Karachi: Oxford University Press, 2007), 4.

thirteen years), while their councilors, are smaller landholders with matriculation level education (eight-nine years).²⁰¹ Perhaps the most damning indictment of the new local government and administrative system is the fact that it has not been extended to the forty-one military cantonments, which continue to be run under “anti-people” and “colonial” rules and regulations, or the federal capital, Islamabad. Ironically, given Islamabad’s high level of development, recent origins, and large number of professional and middleclass residents, it is quite possibly the only part of the country where a system of elected local government on the present plan could actually work. Far from “empowering citizens, the devolution scheme has exacerbated the Pakistani state’s institutional crisis by rooting the military in local politics.”²⁰²

3.8 The Echoes of Empire

At the thematic level, the history of the Pakistani bureaucracy can be divided into four broad categories. First, those years in which an elected civilian executive exercised control over the bureaucracy (1947-1953, 1972-1977, and arguably 1997-1999). Second, years during which the civilian bureaucracy more or less dominated policy making (1953-1969, 1985-1990). Third, years in which the military assumed more or less direct command of all policy making (1969-72, 1977-85, and 1999-present). Then there were years when no body was really in charge (1990-1999). In terms of performance the period between 1947 and 1969 is probably the best. Pakistan overcame severe initial challenges and embarked upon an impressive modernization program. As one retired civil service officer remarked, the post-1969 generation has the misfortune of never having

²⁰¹ Ibid., Chapter 6 “Local Government Elections: Power Dynamics in Smaller Land Holding Constituencies”, 100-39.

²⁰² *Devolution in Pakistan: Reform of Regression*, 10.

seeing Pakistan in "good shape". That said, this period of high performance had an opportunity cost.

Prolonged authoritarian rule left a huge void in Pakistan's political leadership which, in the first decade, for all its flaws, was capable of giving a lead to the civil service. The working relationship between the politicians and the bureaucracy (i.e. the former make policy, the latter assist, advise and implement) suffered irreparably. The politicization of the local bodies and the Ayub Regime's excessive reliance on the civil service to formulate and carry out directives in every field led to a decline in its prestige, impartiality, and legitimacy. It also led to the first serious rumblings and concerns about corruption at the higher levels. The increase in the level of development work affected the ability of the civil service to perform its principal functions, i.e. order and taxation. Amongst the two major structural shocks to the civil service administered by the Ayub Regime in its initial flush of success was the purge (albeit through due process) of one thousand three hundred civil servants and the abolition of the foreign training component (in England and Continental Europe) that CSP trainees underwent.

The period from 1969 to 1977 witnessed a powerful reaction to authoritarian and elitist pretensions of the Ayub regime. This reaction severely impinged upon the performance of the Pakistani bureaucracy. While the institutional cohesion of the bureaucracy was undermined by arbitrary interference, Bhutto nationalized industries and services, and standardized the pay scales into twenty-two national grades (known as NPS) in place of the old system, which had over six hundred pay scales. These measures had a tremendous negative impact on the bureaucracy. On the one hand, the total number of government employees expanded rapidly. On the other hand, because the pay scales

were standardized it became impossible to selectively revise pays. Either everyone would get a marginal increase which wouldn't make much difference or else no one would get an increase. This also led to corruption on a day to day basis and public morality deteriorated rapidly. The state became a personal estate operated as a criminal enterprise and the loss of self-respect experienced by the members of state apparatus was never been recovered from.

The Zia era saw a stabilization and marginal recovery of the condition of the bureaucracy. Zia thought that for whatever its faults the civilian bureaucracy represented the best and brightest of what Pakistan had to offer. There was a reduction in the level of arbitrary interference by the executive and service conditions improved and in-service training was tied to promotion for the first time. However, Zia's policies of supporting the Afghan *Jihad* against the USSR and Islamization within Pakistan did much to make society much more ungovernable. Pakistan was flush with foreign currency, drugs, arms, and a crusading ideology, and the administration faced unprecedented challenges that would have proved difficult to surmount even with capable and committed leadership.

The 1988-1999 period saw in many respects a defective system becoming a non-system. The politicians did not make policy and the administration of the country languished for want of direction. Each change of government was accompanied by shuffles and reshuffles of the bureaucracy. Benazir Bhutto, for instance, established a Placement Bureau to try and induct her protégés into the civil service during her first term. Nawaz Shairf and his brother, Shahbaz Sharif, were notorious for running the government by verbal diktat, on occasion having the paper work filed retrospectively.

Having already lost its *esprit de corps*, sense of competence, prestige and self-respect, the bureaucracy curried favor and sought to please the boss.

Post-1999 the military government's principal innovation as regards the bureaucracy was the system of elected local governments. Although it is too early to tell what the final impact of this system will be, certain indicators of the system's performance can be commented upon. There has been a glaring increase in ordinary criminal activity. It is widely believed that elected local leaders are highly criminalized and beyond securing favors, the elected counselors and their leaders have little understanding of or inclination towards learning about the role of an elected executive in a modern state. The powers of the DCO over departments other than law and order (police) and revenue are much greater than those of the old CSP/DMG. Elimination of the magistracy has removed an important element of control over the police without putting in place a better system. There is a perception that the devolution of power to the grassroots is a farce as the center controls the purse strings and will be packed up as soon as the incumbent departs. This fuels uncertainty, corruption and mismanagement.

The Musharraf regime did not seem interested in introducing the local government reforms in Islamabad or in the cantonments. Evidently, for those who matter, the "colonial" system of bureaucratic control is to be maintained. Under present conditions, an assessment from inside the higher bureaucracy is that about four-fifths of the new recruits to the superior services range in quality from mediocre to actually being worth the minimal pay they take home. The decline in the intellectual and moral quality of the civil servants has translated directly into deterioration in the quality of governance. It has also drawn the military into routine administration in a way not countenanced

before. The military's journey into the politics and administration of the country and the attendant reassertion of the praetorian nature of the subcontinent's culture of power is the subject that is dealt with next.

CHAPTER FOUR

PRAETORIANS

4.1 The Sword and the Spirit

From the ancient centers of civilizations in Egypt, India, Persia, and China, to the classical Hellenic and Roman imperia and the feudal domains, medieval aristocracies and more recent enlightened despotisms of Europe, it was the sword that dominated the spirit. Across the world and through history the rulers were military men and states were organized around a military patronage complex¹ although the modalities of the military organization varied considerably. We thus find that the first Mauryan emperor, Chandragupta Maurya was the former army chief of the dynasty he overthrew. The last Maurya was ultimately deposed by his army chief. The same can be said of the Roman and Byzantine empires from whose historical experience the term "praetorian" is derived as well as for the Persian, Ottoman, and Arab empires whose strength came from the practice of military slavery.

Maintaining control over the military instruments through which power is exercised was no easy task for the ruler. The ruler's arbitrary power exacerbated the apparatus's insecurity and led to frequent rebellions. The apathetic and atomized nature of societies governed arbitrarily as the ruler's personal estate meant that any rebellion that was successful became legitimate. The official priesthood, a sub-sector of the state, would bow before the successful upstart and proclaim him the new Shadow of God or Heaven's Mandated. Under such conditions the ruler had to take an active interest in the

¹ Andrew J. Major, *Return to Empire: The Punjab under the Sikhs and British in the mid-Nineteenth Century* (Karachi: Oxford University Press, 1996), 224.

affairs of the apparatus, employ espionage extensively, mercilessly punish or outwardly forgive acts of defiance, and reward loyal and effective servants. In an environment dominated by arbitrariness, conspiracy, and violence, survival for both master and servant required great moral dexterity and enormous amounts of animal cunning. As soon as the ruler lost the ability or will to dominate and awe his servants, the empire and its apparatus fragmented into petty rival estates. The military machine was the first casualty of this fragmentation and experienced inflation in numbers and decline in effectiveness as evidenced by the Roman, Ottoman, Timurid, and Sikh, experiences.

At its height in AD 180 the Roman Empire, governed as an absolute monarchy since 27 BC, comprised forty-five provinces and stretched from Scotland in the north to the Sahara and Mesopotamia in the south and southeast. Some fifty to seventy million subjects lived in this empire and the total strength of the military was approximately three hundred thousand. In AD 180, with the death of Marcus Aurelius, the succession of wise sovereigns ended. From the reign of Octavian Augustus (27 BC–AD 14) the Roman emperors had to manage a delicate balancing act with the sovereign “elected by the authority of the senate and the consent of the soldiers.”² The anxieties of the emperor were very real:

When he [Augustus] framed the artful system of the Imperial authority, his moderation was inspired by his fears. He wished to deceive the people by an image of civil liberty, and the armies by an image of civil government.

During a long period of two hundred and twenty years from the establishment of this artful system to the death of Commodus, the dangers inherent to military government were, in a great measure, suspended. The soldiers were seldom roused to that fatal sense of their own strength, and of the weakness of the civil authority, which was before and afterwards, productive of such dreadful calamities.³

² Edward Gibbon, *The Decline and Fall of the Roman Empire*, abridged and with an introduction by Frank C. Bourne (New York: Dell Publishing Co., Inc., 1963), 69.

³ *Ibid.*, 68.

After Marcus Aurelius the Roman Empire ran through seventy emperors, each raised and liquidated at the caprice of the military faction in control of Rome and Italy. Each imperial accession was accompanied by lavish donations to the military, especially the elite Praetorian Guard stationed at Rome since the fall of the republic in 27 BC. Convulsed by civil wars in which military commanders and provincial governors embarked on campaigns to conquer Rome and proclaim themselves, or their civilian stooges, emperor, the Roman Empire experienced a general social and economic catastrophe. Taxes, fines, confiscations, and internal dislocation spread over a century of chaos caused the population of the Roman Empire to fall by as much as half. Eventually, a military savior restored order to what was left of the empire. At the end of this period, however, the size of the military stood at half a million men.

A similar pattern manifests itself in the Ottoman Empire. During the period of Ottoman ascendancy (1300-1600) the sultan's slave soldiers, or janissaries, numbered no more than twenty thousand. After the succession of effective rulers failed in the late-1600s the number of janissaries rose steadily and reached one hundred and fifteen thousand in 1826. In times of war and crisis barely one-sixth of the men on the payroll showed up for service. Once the protectors of the sultan and the vanguard of Ottoman expansion, the janissaries became a mafia dominated by conspiracy and internecine violence that lived comfortably in the cities, terrorized imperial subjects, and murdered reform-minded sultans at will. It was their massacre at the hands of an exceptionally cunning and ruthless ruler, Sultan Mahmud III, which enabled the Ottoman Empire to limp along until the early twentieth century when, once more, the sultan lost control of the military and became its captive after the Young Turk Revolution of 1908.

In the Timurid Empire in India imperial servants were classified as *mansabdars* or rank-holders against a numerical value indicative of the number of troops each was supposed to maintain. There was no distinction between the military and civil administration for *mansabdars* could be, and were, assigned any function the emperor deemed fit. From their coercive powers flowed immense wealth. In the late-sixteenth century Akbar's approximately one thousand seven hundred *mansabdars* received about eighty percent of the empire's annual revenues of one hundred and thirty million rupees with the top twenty-five securing about thirty percent of the revenue.⁴ As the empire weakened in the latter half of the seventeenth century, the number of *mansabdars* rose to nearly fourteen thousand five hundred, of whom half received assignments of land and half cash salaries, against total revenues of about three hundred and eighty million rupees extracted through self-destructively heavy taxation.⁵

In the context of the Sikh kingdom founded by Ranjit Singh the army numbered about eighty thousand during his reign (1799-1839) and consumed some forty percent of the empire's revenues.⁶ This military force was trained and equipped along European lines though little else by way of modernization was carried out. Between Ranjit Singh's death in 1839 and the first Anglo-Sikh war in 1846, the Sikh kingdom descended into civil war as rival military factions fought for power. During that period of internal dissolution the Sikh military grew in strength from eighty thousand to over one hundred

⁴ Abraham Eraly, *The Mughal World: India's Tainted Paradise* (London: Weidenfeld & Nicolson, 2007), 242.

⁵ *Ibid.*, 244.

⁶ Major, *Return to Empire*, 19.

and twenty thousand and would have continued to grow in numerical strength and capriciousness if the British had not intervened.⁷

The British understanding of the relationship between the military and civilian branches of the state reflected the liberal and constitutionalist bias of their own culture of power which was both admired and envied by Enlightenment-era thinkers. Carl von Clausewitz, the great nineteenth century Prussian philosopher of war and military history, wanted to see warfare and the structures that support it as emanations of "an act of policy."⁸ The actual application of physical force was the method while the objective was to "compel our enemy to do our will."⁹ Ideally, the political objective or the state's "motive for the war" would "determine both the military objective to be reached and the amount of effort it requires."¹⁰ In drawing the distinction between a superior moral and intellectual entity that laid down policy and the instruments of violence used to execute the sovereign's will Clausewitz expressed an idea shared somewhat self-contradictorily by Napoleon:

Napoleon might have been expected to give the army a privileged position within France. Two examples from many show what actually happened. General Cervoni, commanding the 8th division, ordered that "anyone found carrying arms will be imprisoned in the Fort St Jean in Marseilles"; on 7 March 1807 Napoleon reproved him: "A general has no civil function unless specially invested with one *ad hoc*. When he has no mission, he cannot exercise any influence on the courts, on the municipality or on the police. I consider your behaviour madness."¹¹

The other example involved cadets at the Metz artillery training school who rioted and abused the civilian population:

⁷ Tan Tai Yong, *The Garrison State: The Military, Government and Society in Colonial Punjab, 1849-1947* (Lahore: Vanguard, 2005), 34.

⁸ Carl von Clausewitz, *On War*, ed., and trans., Michael Howard and Peter Paret (Princeton: Princeton University Press, 1989), 87.

⁹ *Ibid.*, 75.

¹⁰ *Ibid.*, 81.

¹¹ Vincent Cronin, *Napoleon* (London: HarperCollins Publishers, 1994), 201.

Napoleon called them to order: "The Prussian army used to insult and ill-treat burghers, who were later delighted when it suffered defeat. The army, once crushed, disappeared and nothing replaced it, because it did not have the nation behind it...." Constantly Napoleon drove home the point that a Frenchman is a citizen first and a soldier second, that every offence committed by a soldier in peacetime must first be referred to the civil authorities. As he remarked in 1808: "There are only two forces in the world: the sword and the spirit; by spirit I mean the civil and religious institutions; in the long run the sword is always defeated by the spirit."¹²

In expressing these views Clausewitz and Napoleon were doubtless aware that even in their own countries the power of the sword could not be underestimated. Prussia was Germany's most militaristic state and it would not be until after the Second World War that civilian supremacy would be established in that part of the world. France struggled throughout the nineteenth century to banish Bonaparte's praetorian legacy. Much of Europe remained under military or quasi-military one-party rule until the liberalizing waves of the 1970s and late-1980s.¹³

It is in this broader context that the measure of the British achievement in reforming the principles of civil-military relations ought to be viewed. During British rule several important developments took place as regards the role of the military. First, the army ceased to be the private possession of the ruler and was constituted as an institution under the law. Second, the army was insulated from politics and thus the medieval-conspiratorial soldier mindset gave way to a more professional and apolitical world view. Third, except for certain regions of the country, a disproportionate number of which were inherited by Pakistan due to its location,¹⁴ the military gradually ceased to be an administrative instrument. Fourth, the size of the military declined as a percentage of the

¹² Ibid., 202.

¹³ For more on the transformation of Europe and the emergence there of "civilian states" see James J. Sheehan, *Where Have All the Soldiers Gone? The Transformation of Modern Europe* (New York: Houghton Mifflin, 2008).

¹⁴ Yong, *Garrison State*, 309.

population. On the eve of WWI the army's numerical strength in British India was one hundred and fifty thousand out of a population of two hundred million. On the eve of WWII the army numbered two hundred and fifty thousand out of a population of three hundred and fifty million (British India). Last, by the time the British left India a network of meritocratic and democratic institutions operated by civilians was in place. Power itself was transferred to constituent assemblies that comprised elected politicians upon whose sagacity rested the perpetuation of "the most outstanding contribution of the British rule in India...a theory of civil-military relations which emphasized an over-all civilian control and the military's aloofness from politics."¹⁵

4.2 Marching Orders

Between June 30 and October 30, 1947, the armed forces of British India were partitioned along communal lines. The total strength of this military was about four hundred and sixty thousand inclusive of nearly twelve thousand Indian officers and defense officials. Pakistan's share of this military was fixed at one-third, or one hundred and fifty thousand men, of whom ninety thousand were already deployed in its territory. Due to the concentration of recruitment areas in the Punjab, which contributed six-tenths of the combatant strength of the British Indian armed forces in 1927,¹⁶ the Pakistani military was well-placed to replenish and expand its numerical strength. The critical shortage was in the officer corps where of the four thousand officers needed about half were available.

This was to be expected given the rate of progress in Indianization targeted by British policy-makers. Their objective was that by 1952 "half the total cadre of officers in

¹⁵ Rizvi, *The Military and Politics in Pakistan*, 33.

¹⁶ Yong, *The Garrison State*, 185.

the Indian Army would be Indians.”¹⁷ Therefore, it was hardly surprising that in August 1947 some thirteen thousand five hundred of the twenty-two thousand officers in the Indian military were British.¹⁸ In managing their imperial decline, the British seemed to be subconsciously targeting the late-1960s or early-1970s as the period in which Indianization of the covenanted services and armed forces would be completed and power transferred to a united and self-governing India.

For the new national government in Pakistan retaining British officers into the 1970s was out of the question even though Muslims made up only one-fourth of the total strength of the officer corps of the British Indian military on the eve of independence. Liaquat Ali Khan took the defense portfolio in addition to the premiership and as the chairman of the Defense Committee of the Cabinet (DCC) relentlessly pushed ahead with a program that sought complete nationalization of the armed forces by January 1951. As a temporary measure about five hundred British officers were retained. The pace of recruitment was increased and accelerated promotions given so that majors and colonels rose to senior command positions in a few years time. Short-term commissions were also given against vacancies while voluntary retirement was restricted. The committee constituted by the cabinet to report on nationalization confidently asserted that the target date of January 1, 1951, would be met insofar as the army was concerned “except in technical branches which could not carry on unless British or other foreign personnel could be obtained on contract.”¹⁹ Such rapid change was being accomplished without

¹⁷ *Report of the Indian Sandhurst Committee, November 14, 1926* (London: His Majesty's Stationery Office, 1927), 22.

¹⁸ Brian Cloughley, *History of the Pakistan Army: Wars and Insurrections* (Karachi: Oxford University Press, 2006), 1. This meant that about sixty percent of the officers were British and forty percent Indian.

¹⁹ 1949, File No. 173/CF/49, Government of Pakistan, Cabinet Secretariat, Cabinet Branch, “Nationalisation Committee's Report”, 8.

significant harm to efficiency which was defined "as the ability of the Armed Forces to defend the borders of Pakistan against aggression from neighboring countries."²⁰ The task of formulating the country's defense policy was firmly in the hands of the cabinet committee and subcommittees constituted by the prime minister under his own chairmanship.²¹ Given that "the danger of war was imminent, it was essential that speedy decisions should be taken" to ensure preparedness for military conflict and determine Pakistan's defense needs.²² Thus, the defense committee and its subcommittees were tasked to "deal specifically with these matters."²³

The principal neighbor from whom a credible threat was perceived was India. Of the one hundred and seventy thousand tons of engineering stores and machinery due to be sent to Pakistan from India only about a thousand tons were received. Of the one hundred and sixty thousand tons of ordnance stores some twenty thousand tons arrived. Against the sixty thousand tons of ammunitions and explosives and two hundred and forty-nine armored vehicles, nothing was received.²⁴ The military conflict in Kashmir and the pressure exercised by India meant that military infrastructure developed along the Afghan border by the British to counter the Russians became substantially irrelevant to the defense needs of Pakistan. While much can and has been made of Jinnah's futile overtures to the United States of America for economic and military assistance, the fact is that if India had provided Pakistan with its lawful share of military assets as per the agreement between the two countries things would have turned out differently and for the

²⁰ Ibid., 2.

²¹ 1948, File No. 172/CF/48, Government of Pakistan, Cabinet Secretariat, Cabinet Branch, "Constitution and Procedure of Defence Committee of Cabinet."

²² Ibid., Cabinet Meeting, September 22, 1948. Case No. 524/70/48 "Implementation of the decisions of the Defence Committee of Cabinet", 1.

²³ Ibid.

²⁴ For more see Fazal Muqeem Khan, *The Story of the Pakistan Army* (Karachi: Oxford University Press, 1963). This work may be regarded as a valuable early history of the army from official sources.

better. Pakistan would have neither had to spend an average of six-tenths of its budget for 1947-1958 on defense nor would it have sought to involve itself in an alliance with the United States. It is evident that without implacable Indian hostility Pakistan would, like India itself, have adopted a neutral position and tried to play both the United States and the Soviet Union for as much aid and technical assistance.

Locked into an unwanted conflict against an adversary five times its size and rebuffed by foreign powers, Pakistan evolved a defense policy which in its initial years boiled down to raising an infantry army that could hold on to territory through physical occupation. The lack of firepower was painfully driven home in 1951 when Liaquat Ali Khan learnt that Pakistan "had only thirteen tanks with limited engine life left in them."²⁵ It was hardly surprising that the thinking of Pakistan's civilian leadership became highly militarized and the army came to occupy an increasingly influential role in policy-making.²⁶ Ayub Khan's ascent to the post of commander-in-chief of the army on January 17, 1951, from being a colonel on August 14, 1947, was a consequence of Liaquat Ali Khan's policy of rapid nationalization. In effect, it meant that officers with experience of regimental command were elevated to positions of strategic importance. Those passed over in the dash to the top fumed and fretted about the injustice done to them by the corrupt politicians who raised their colleagues above them. One of these jilted aspirants who hungered for the top slot was Major General Akbar Khan. He plotted to overthrow the government but was found out in time.

After the conspiracy was unearthed, Liaquat Ali Khan pushed through the Constituent Assembly the Rawalpindi Conspiracy Act. This Act set up a Special Tribunal

²⁵ Pervaiz Iqbal Cheema, *The Armed Forces of Pakistan* (Karachi: Oxford University Press, 2002), 58.

²⁶ In August 1951 it was decided to include the armed forces chiefs in those cabinet meetings that discussed defense policy. By the end of 1954 the army chief had become the minister for defense.

empowered to violate essential principles of law and justice. Amongst other violations, the Conspiracy Act made lawful the submission of a confession or statement as evidence "made before the magistrate by any person...without any opportunity for the defense to confront such a person and rebut him."²⁷ It also cut the "three stages of judicial scrutiny" for capital crimes to one.²⁸ The Conspiracy Act thus joined PRODA and the Public Safety Act as Liaquat Ali Khan's contribution to Pakistan's expanding "corpus of arbitrary and repressive laws, rules and practices...."²⁹

Akbar Khan's thinking was revealed in the documents seized by the authorities and his own testimony. He believed all of Pakistan's problems were due to corrupt and self-seeking politicians and their bureaucratic accomplices. They had to be liquidated and "replaced by military rule."³⁰ The nationalization of the army was condemned as "a farce and nothing more than the filling of some chairs vacated by the British by some Pakistanis."³¹ Akbar Khan expounded his vision of a socialist Pakistan "under a military system 'which creates national uniformity'" and a just distribution of the fruits of nationalization.³² The cost of this revolution and the proposed liquidation were dismissed because "it is the ultimate future that counts and not the period in between."³³ The coup, its proponents believed, could act as a "catalyst" and bring together the resentments of those passed over for promotions with those suffering from economic neglect and backwardness and the left-leaning progressive intelligentsia and become "the herald of

²⁷ Hasan Zaheer, *The Times and Trial of the Rawalpindi Conspiracy 1951: The First Coup Attempt in Pakistan* (Karachi: Oxford University Press, 1998), 19.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid., 249.

³¹ Ibid., 250.

³² Ibid.

³³ Ibid.

the new era.”³⁴ While a superficial communist layer was incorporated into the conspirators’ thinking, in effect the program was to use “blood and fire to obtain power” for themselves.³⁵

By the time the Special Tribunal handed down its judgment on January 5, 1953, against those who sought to plunge the country into the abyss of ideocratic arbitrary rule, the situation had changed. Liaquat Ali Khan was dead. Khawja Nazimuddin was the new premier. Ghulam Mohammad, “the leader of the bureaucrats” was the new governor general and poised to cut the politicians down to size.³⁶ For this task he needed the support of the military and that meant Ayub Khan.

As the commander of an army with two hundred thousand men but only thirteen operational battle-tanks, Ayub Khan shared Ghulam Mohammad’s eagerness to acquire more firepower. With British supplies waning after 1951 and Indian hostility showing no indications of abatement, the United States was the only realistic option. Compounding Ayub’s difficulties was the political power vacuum created by Liaquat Ali Khan’s death, Khawja Nazimuddin’s ineptitude and Ghulam Mohammad’s machinations. Already the military had been deployed against Kalat (1948), and used to suppress riots in Karachi (1949) and Dhaka (1950). In 1952 it was called out again in East Bengal. In March 1953 it responded to religious riots in Lahore, restored order under the umbrella of martial law and stayed in control of the city until May. In these two months Nazimuddin was arbitrarily dismissed and Mohammad Ali Bogra, then ambassador to Washington, flown in and inducted as the new prime minister.

³⁴ Ibid., 251.

³⁵ Ibid.

³⁶ *The Report of the Hamood-ur-Rehman Commission of Inquiry into the 1971 War: As Declassified by the Government of Pakistan* (Lahore: Vanguard, 2003), 32.

As the chief, Ayub had a "personal approach to running the army" and "he took more interest than would be usual in officer appointments."³⁷ This led to the rise of the Ayub's supporters³⁸ which, in turn, made the army chief even more useful to Ghulam Mohammad who decided to bring him into Bogra's "ready-made cabinet" as the defense minister.³⁹ By making Ayub part of a patently illegal cabinet in which the premier and the defense minister were not elected representatives the governor-general hoped to bind the army to his will. Ayub was rewarded with extensions leading to the peculiar situation that whereas Pakistan had seven prime ministers between January 1951 and October 1958, the army chief remained the same person. In politicizing the senior officers of the army and patronizing its chief, Ghulam Mohammad had created a very dangerous situation for himself (had he lived) and his successors. With American dollars flowing into Pakistan from May 1954, the military leadership began thinking in terms of national restructuring and solutions to Pakistan's numerous and highly complicated problems. An essential component of the diagnosis arrived at by the praetorian mind when it contrasted the "efficiency" of the military with the inefficiency and corruption of the civilians was that Pakistani society lacked the army's greatest asset – the unity of command.

4.3 The Unity of Command

An army is a strange organism. At a functional level it aspires to be a highly efficient technocracy of violence, trained and equipped with the latest methods and weapons its country can afford. At a tactical level an army appears, at least to an untrained observer, to be a vast agglomeration of feudal castes and martial tribes with each fighting unit animated by an acute sense of honor, ever sensitive to the weight of its

³⁷ Cloughley, *History of the Pakistan Army*, 34.

³⁸ *Ibid.*, 35.

³⁹ *The Report of the Hamood-ur-Rehman Commission of Inquiry into the 1971 War*, 33.

past performance, and exuberantly idiosyncratic. At a strategic level, however, it is the unity of command and a culture of obedience to its dictates that ensures order within the mass. A military officer is thus a technocrat in the sense that he possesses highly specialized skills that can only be acquired through years of effort and practice. But because the ultimate task is to apply these skills in conditions of extreme stress or violence he is drilled into believing in his own superiority, the wisdom of his commanders, and the loyalty of his subordinates. A conscious effort is made by his trainers to harness what Plato described in *The Republic* as *thymos* – a spirited but irrational pride and desire for recognition that can overcome the fear of death. The superior *thymos* of the warrior inevitably leads him to view his non-martial counterparts as weak, soft, and inferior.

On October 4, 1954, a few weeks before the arbitrary dismissal of the first Constituent Assembly and Ayub Khan's induction into the cabinet as defense minister, he wrote a memorandum that purported to present a solution to Pakistan's problems.⁴⁰ In it the rising praetorian asserted that the provincial boundaries and states of West Pakistan were artificial and sustained by the interests of politicians, for whom he had nothing but contempt. In strategic and economic terms West Pakistan was a single entity and therefore it should be merged into a single provincial unit in order to unleash its latent potential for development. East Bengal should be renamed East Pakistan, existing ministries and legislatures abolished, and each of the two provinces to be divided into smaller and relatively homogeneous administrative units. At the center a unicameral

⁴⁰ Amanullah Memon, ed., *The Altaf Gauhar Papers: Documents toward the Making of the Constitution of 1962* (Lahore: Sang-e-Meel Publications, 2003). The title of the note is "A Short Appreciation of Present and Future Problems of Pakistan."

legislature elected on the basis of inter-wing parity with an effective president was needed while at the local level full emphasis was to be laid on economic development.

In essence, what Ayub was saying was that the country ought to be organized like the army. The center would operate as the GHQ establishing overall unity of command. The two provincial governments would serve as regional headquarters. The relatively homogeneous districts and subdivisions would be analogous to regiments and battalions. And at all levels of the chain of command the uniform national effort was to achieve excellence in technocratic developmental efficiency just as the military devoted itself to technocratic martial efficiency. These were not idle thoughts. Within a year of this program being penned, One Unit in West Pakistan and inter-wing parity were realized. The 1956 Constitution established a unicameral legislature with the president exercising real power. Soon after overthrowing Iskander Mirza on October 27, 1958, a Basic Democracies scheme suitable to the genius of the Pakistani people was imposed.⁴¹ This scheme neatly divided Pakistan into eighty thousand ward committees that were directly elected and formed the base of an indirect electoral pyramid the tiers of which included nine thousand union councils and town committees, seven hundred and fifty-four sub-district and municipal committees, seventy-nine district and agency councils, and sixteen divisional councils. Since the eighty thousand ward committee members also acted as the electoral college for the presidential elections many "openly sold their votes to the highest bidder."⁴² Development expenditure funneled through the local committees by the center facilitated the "spread of corruption into every nook and corner of the

⁴¹ Iskander Mirza, as a leading member of the governing corporation had done much to destabilize and undermine the democratic process in Pakistan. He also continued Ghulam Muhammad's policy of relying on the military to buttress his political position. It was perhaps a case of poetic justice when the long-time intriguer was outplayed by his own military protégé.

⁴² *The Report of the Hamood-ur-Rehman Commission of Inquiry into the 1971 War*, 49.

country"⁴³ though its dimensions were nothing compared to what would happen later. The promulgation of the 1962 constitution with its concentration of powers in the hands of the president provided the structure introduced by Ayub with constitutional cover.⁴⁴ Ayub's diagnosis and prescriptions of October 4, 1954, became an integral component of the Pakistani praetorians' mental and moral landscape.⁴⁵

Yahya Khan formally reestablished four of West Pakistan's provinces, destroyed Ayub's basic democrats through martial law regulation, and did away with inter-wing parity. He had, however, no intention of handing power over to a civilian dispensation and was quite keen to perpetuate rule from his military headquarters without any civilian input. For this purpose hundreds of military officers were deputed to civilian positions and the higher bureaucracy was utterly marginalized.

Zia-ul Haq retained martial law from 1977 to 1985, created a powerless consultative assembly at the center and toothless local bodies at the grassroots level. In the second elections to these local bodies in 1983-1984 some seventy thousand councilors were elected to four thousand one-hundred union councils, eighty-four district and agency councils, twelve municipal corporations, one hundred and seventeen municipal committees, two hundred and eighty-eight town committees, and thirty-nine cantonment

⁴³ Ibid.

⁴⁴ 1962, File No. 38/CF/62(2)-V, Government of Pakistan, President's Secretariat (Cabinet Division), Cabinet Section, "Fortnightly Summary of the activities of the Ministry of Defence for the period ending the 15th March, 1962", 4. The ministry reported that the constitution was "very well-received" and suited the "needs" of Pakistani citizens while "everyone" was "confident" that it would "be understood and worked by our people" and act as a "direct instrument for the unity, progress and prosperity of Pakistan." Ibid.

⁴⁵ As did a sense of surprise when the political clients of the military regime failed to show sufficient enthusiasm. Evidently, except for the defense minister, "none of the members of the National Assembly, had a word of praise" for the armed forces "which had saved the country from ruination" while "...the debate" on the defense budget "even betrayed indifference on the part of Assembly members towards the armed services." Ibid., "Fortnightly Summary of the activities of the Ministry of Defence for the period ending the 31st August, 1962", 3.

boards.⁴⁶ After each set of local government elections large-scale training of the elected councilors was undertaken on the model introduced by Ayub. In 1984, some seventy-thousand councilors were trained by the government to provide them "with the necessary professional knowledge and expertise of rural administration during their four-year terms of office."⁴⁷ Though allergic to terms such as autonomy, Zia proved more intelligent in the pursuit of unity of command than his praetorian predecessors or successor. Unlike Ayub, Zia opted against politicizing the local bodies by turning them into an electoral college. Unlike Yahya or Musharraf, he quickly grasped that the higher bureaucracy represented the most competent element in Pakistani society and should be relied upon to carry out the civil administration.

The Musharraf regime has also pursued a similar line of action calling for a "unified command" to deal with Pakistan's problems and "grassroots" empowerment to usher in "true" democracy. To indicate its sincerity in this regard, Omar Asghar Khan, a leading grassroots developer with what passes for credibility⁴⁸ in NGO circles was offered the local government and rural development portfolio after the October 12, 1999 coup. He accepted and the Sustainable Development Policy Institute (SDPI) and Asia Foundation in Pakistan, combined with the United Nations Development Program (UNDP), the Asian Development Bank (ADB), the World Bank (WB), the British Department for International Development (DFID), the Canadian International Development Agency (CIDA), and the Norwegian Agency for Development (NORAD), assisted the NRB in unleashing a revolution through devolution upon Pakistan. The

⁴⁶ Muhammad Afzal, "Local Government", in Jamilur Rehman Khan, ed., *Government and Administration in Pakistan*, 644.

⁴⁷ Ibid., 657.

⁴⁸ Shahrukh Rafi Khan, *Initiating Devolution for Service Delivery in Pakistan*, ix.

infantile enthusiasm and remorseless naïveté of the reformers was expressed by a senior DFID official who confidently asserted in the manner of a latter-day Gladieux that “mass empowerment was the real motivation behind devolution. Colonialism and centralization, twin evils of Pakistan’s bureaucratic institutions can’t be abolished overnight – 101 elected districts are the answer.”⁴⁹ Musharraf himself proclaimed that the local government reforms introduced by his regimes represented a major positive change and “did away with the vestiges of the colonial era, when a deputy commissioner and a superintendent of police ran districts like lords. With the stroke of the pen they were both subordinated to the elected mayor.”⁵⁰ Declaring himself an incurable optimist, who sees the glass as half full, perhaps even when it is more than half empty, Musharraf dismissed criticism of the plan.⁵¹

Musharraf’s objective was to establish unity of command that would enable the praetorian center to exercise direct control at the local level circumventing the higher bureaucracy as well as the provincial and national politicians and assemblies. Though enormously wasteful, confusing, and corrupt, the devolution scheme enabled for the first time the sustained penetration of local administration by the military. The army “bargained opportunistically along” caste, clan, and kinship lines and “unleashed equally divisive forces.”⁵² Like Ayub and Zia, Musharraf appreciated that a “multitude of scattered” local governments dependent on patronage were far “easier for the military to deal with than four relatively more cohesive provincial governments.”⁵³

⁴⁹ *Devolution in Pakistan*, 23.

⁵⁰ Pervez Musharraf, *In the Line of Fire: A Memoir* (London: Simon & Schuster, 2006), 172.

⁵¹ *Ibid.*, 174.

⁵² *Devolution in Pakistan*, 2.

⁵³ *Ibid.*, 6.

The destruction of the DMG's role as collector-magistrate and police supervisor, and its subordination to local elected officials, completed the operation. Musharraf attained the unity of command through the decapitation and demoralization of the higher bureaucracy and the undermining of the provincial and national assemblies. The provinces and local governments could both be controlled through fiscal centralization. The provinces receive about eighty percent of their funds from the center, which collects ninety percent of all taxes. This allows the center to compel the provinces to transfer funds to the local governments and manipulate the antagonisms between these two tiers. The finishing touch was, in Yahya's fashion, "The insertion of 3500 military people into civilian bodies [usually in important positions] at the national, provincial, divisional, and district levels."⁵⁴

The impact upon the body-politic of the relentless pursuit of unity of command and the application of the military mind to non-military problems has been negative. Repeated attempts to reinvent the wheel have deprived Pakistan of administrative stability without improving efficiency. Each period of praetorian-led national reconstruction has intensified internal conflict and weakened the integrity of the federation. Moreover, as military rule continues and challenges mount, the senior layer of officers are exposed to criticism, civil disobedience increases, and the risk of the politicization of the lower ranks grows. This, in turn, leads to complete or partial withdrawal from the political minefield and in the end the image projected is that Pakistan's praetorians are ultimately reluctant in their pursuit of power. This image is in part reality and needs to be understood.

4.4 Reluctant Revolutionaries

⁵⁴ Ibid., 8.

Some of Pakistan's military officers can be legitimately described as politicians *manqué* who prefer the "cut-and-thrust of political maneuvering to that of the battlefield" and rise by practicing the art of the courtier.⁵⁵ The fact remains that confronted with moderately determined civilian opposition, such as the anti-Ayub agitation of the late-1960s or the judicial crisis that ended with the restoration of the Supreme Court Chief Justice in July 2007, the Pakistani military has shown little appetite for Burmese or Indonesian-style repression.

One important reason for this is Indian hostility. The Pakistani military has an enemy and while this animosity has facilitated the military's rise to prominence it also places practical limits on its capacity for political intervention. The military can ill-afford permanently to engage a substantial portion of its serving troops and officers in civilian duties. Occasional assistance, such as Operation Jute (1952-1953), Operation Close Door (1957-1958), internal security operations in aid of civil authority, emergency response and rescue in case of floods or earthquakes, and carrying out specific tasks such as the 1998 census, is as far as the military is willing to go. Pakistani military officers readily concede that for them "to take part in running a country, especially involving petty detail in settling land disputes, lawsuits and so forth, debilitates the martial ethos...."⁵⁶ Unlike other militaries, Pakistan's armed forces actually need to keep this ethos as high as possible and their psychological orientation is squarely outwards and directed towards India and the troubled borderlands of Afghanistan. Related to this external threat are the high levels of professionalism that characterize the officer corps and the low level of overall politicization.

⁵⁵ Cloughley, *History of the Pakistan Army*, 138. This is a reference to Lt. General Peerzada, MS and Adjutant General to Ayub Khan and Principal Staff Officer to Yahya Khan.

⁵⁶ *Ibid.*, 132.

About three-fourths of Pakistan's officers retire after twenty-three years of services as majors. Army chiefs from Ayub Khan onwards have been quite "aware that a barrack-bound army could be a breeding-ground for malcontents" and have followed his prescription of keeping the men busy with field training exercises.⁵⁷ That the ability of officers to rise depends upon their demonstrable competence until the very senior levels when political considerations may play a role circumscribes the prospects of politicization of the officer corps. This translates directly into the apolitical nature of the average soldier whose mental horizons are shaped by a clannish sense of regimental honor, training and the prospect for modest economic advancement. In political terms this means military coups in Pakistan take place when the incumbent regime is already discredited and perceived by the public as leading the country towards anarchy. The same logic ensures that military regimes negotiate and compromise when opposition elements reassert themselves.

The patience of the preponderantly apolitical officer corps with praetorian elements at the senior levels is finite, as Yahya Khan discovered to his discomfort after the 1971 defeat at Indian hands. His protégés got such a hostile reception at GHQ Rawalpindi on December 19, 1971, that General Hamid was left "shocked beyond speech."⁵⁸ Military units garrisoned at Gujranwala, a major city near Lahore, were "near mutiny" and incensed by the poor war leadership of the politicians in uniform.⁵⁹ The pervasive distaste for politics within the Pakistani military is also attested to by the failure of all coup attempts other than those launched by the army chief. In 1973, twenty-one army and fourteen air force officers were arrested on suspicion of conspiracy against the

⁵⁷ Ibid., 27.

⁵⁸ Ibid., 213.

⁵⁹ Ibid., 212.

state. Of the thirty-five, one army officer and seven air force officers suffered no penalty, in the latter case at the insistence of the government which reversed their retirement orders leading to the air chief's resignation in protest. In 1995, a coup attempt by Major General Zaheerul Islam Abbasi and thirty-five other officers was thwarted. Other attempts, such as the abortive one against Zia in 1984, also met with failure.

What is fascinating about Pakistan's praetorians is their timidity. All of them came to power through bloodless coups. All of them sought an accommodation with political elements soon after coming to power, though in Yahya's case the attempt failed miserably. Except for Zia, who perished in an air crash in suspicious circumstances at a time when he was transparently fumbling and losing ground, all have been bloodlessly forced from power by a combination of civil disobedience and loss of support within the military. No military ruler has carried out purges of the officer corps to eliminate perceived political rivals and install political allies. All have worked through the regular system of promotions, transfers, and postings, and sought to influence appointments through the existing procedures, rules, and mechanisms for inputs though quite naturally such evaluations are partially subjective. While politics is a privilege reserved for the miniscule praetorian elite, the power exercised has secured for a large number of officers and men economic wealth and social mobility and consolidated a neo-*mansabdari* system in Pakistan.

4.5 The Neo-Mansbardari System

In continental bureaucratic empires wealth flows from the exercise of state power or favorable proximity to it. Such states redistribute wealth coercively extracted through taxation and confiscation and are often engaged in a mafia-style distribution of spoils

amongst members of the apparatus. Force, opacity, and arbitrariness being the key ingredients in this enterprise it follows quite logically that the instruments of violence – the military, police, and intelligence agencies, the lines between which are often blurred in these states – reap the lion's share. The ruler feels that by morally and economically compromising his servants his personal will shall be blindly obeyed. Hitler, was thus fond of rewarding his loyal generals without reference to their military performance with personally signed grants of half a million pounds sterling (in current value), "huge tracts of land", estates, presents, titles and the like.⁶⁰ In contrast, Churchill "respected people who stood up to him" and "he appointed Alanbrooke precisely because he knew he would stand up to him."⁶¹ After the war, the victorious general Alanbrooke "found himself so impoverished" that he had to sell his house and ornithological books.⁶²

Before 1947, the policy of the imperial government was to reward the enlisted men, NCOs and JCOs, with grants of lands in newly irrigated territories of the Punjab while the officers were paid sufficiently well in cash to obviate the need to remunerate them in kind. For ordinary peasants and cultivators the prospect of owning their own plot of land made the small pay they received as soldiers well worth it. The ownership of land was a mark of great distinction and source of honor. For the state the expansion of cultivation meant more land revenue and greater stability. From 1880 onwards hundreds of thousands of acres were brought under the plough and in 1900 the Land Alienation Act "prohibited the transfer of land to non-agricultural classes" thus countering the prospect of absentee landlordism by Hindu moneylenders.⁶³

⁶⁰ Andrew Roberts, *Hitler and Churchill: Secrets of Leadership* (London: Phoenix, 2003), 163.

⁶¹ *Ibid.*, 134.

⁶² *Ibid.*, 164.

⁶³ Yong, *The Garrison State*, 93.

Partition and the transfer of large numbers of soldiers and officers across the new divide meant that provision had to be made for resettlement and compensation. In addition to compensating the military officers for losses suffered en route to Pakistan by extending home loans it was decided to lease sites in cantonment areas "for house building to refugees" and officers who had opted for the Pakistan armed services.⁶⁴ The proposal was for residential plots ranging from one thousand to two thousand square yards to be given in the light of need and seniority from the cantonment lands. Curiously, the service chiefs, led by Ayub Khan, demanded that the size of the plots be increased to one acre, three-fourths of an acre, and half an acre.⁶⁵ The finance ministry shot down this proposal stating that it "did not share the views of the C.in.Cs as contained in their note" which was in flagrant violation of "the procedure followed by all the House Building Societies."⁶⁶ It was observed that land in cantonment areas was already developed and a constituted a very valuable asset that may be required for military purposes and "therefore be conserved as much as possible."⁶⁷ However, about two hundred military officers were given land in cantonment areas by 1952 and some two hundred more acres were readied for lease.⁶⁸ In 1954, the provincial authorities in the Punjab were tasked with the reservation of one thousand acres of land for navy personnel.⁶⁹

This understandably upset those who were not refugees and in 1952 Ayub Khan launched a welfare directorate at GHQ. It immediately undertook five schemes to acquire

⁶⁴ 1951, File No. 92/CF/51, Government of Pakistan, Cabinet Secretariat, Cabinet Branch, Summary for Cabinet, "Leasing of Sites in Cantonments for House Building to Refugees/Optees Officers of the Armed Forces", 1.

⁶⁵ Ibid.

⁶⁶ Ibid., "Note by D.M. Finances", 1.

⁶⁷ Ibid.

⁶⁸ Ibid., Ministry of Defence Summary, "Leasing of Sites in Cantonments for House Building to the Officers of the Pakistan Armed Forces and Civilians Paid from Defence Estimates", 3.

⁶⁹ 1954, File No. 8/CF/54-55-XIII, Government of Pakistan, Cabinet Secretariat (Main) Cabinet Branch, "Fortnightly Summary for the period 1st April to 15th April, 1954", 1.

land for military personnel along the India-Pakistani border and parceled it out in units of twenty-five to two hundred and fifty acres. In Sindh some three hundred thousand acres were thus acquired and distributed.⁷⁰ On April 7, 1955, the chief minister of Sindh ingratiatingly informed the governor general in the context of the Ghulam Muhammad Barrage that "as Your Excellency is aware, we have made a categorical commitment to earmark an area of hundred thousand acres for men and officers of the armed forces. This reservation may have to be increased later, if circumstances justify it."⁷¹ It was decided to place the land at the disposal of the defense ministry.

Ayub Khan, acting in his capacity of the concerned minister, pushed through the cabinet, on May 4, 1955, his proposals for the distribution of the hundred thousand acres. No one was to get more than two hundred and fifty acres; about fifteen thousand acres were reserved for officers and eighty-five thousand for JCOs and other ranks.⁷² Officers who had already received more than fifty acres of land under the previous schemes were not eligible for a share of the one under consideration.⁷³ Simultaneously, Ayub helped secure civil employment for three retired officers and seven hundred and twenty-nine JCOs.⁷⁴ Ayub also took a keen interest in the appointment of Major General Anis Ahmad Khan as the Rehabilitation Commissioner of Karachi and wrote to the premier on May 21, 1954 "introducing the officer and recommending that he might be suitably assisted to

⁷⁰ Saeed Shafqat, *Civil-Military Relations in Pakistan from Zulfikar Ali Bhutto to Benazir Bhutto* (Boulder, Colorado: Westview Press, 1997), 36.

⁷¹ 1955, File No. 17/CF/55, Government of Pakistan, Cabinet Secretariat, Cabinet Branch, Chief Minister, Sind, to Governor General, April 7, 1955, Karachi, "Allotment, Distribution, Sale, Lease of the Land in West Pakistan", 3.

⁷² Ibid., Cabinet Meeting, May 4, 1955, Case No. 295/41/55, "Allotment, Distribution, Sale, Lease of the Land in West Pakistan", 1.

⁷³ Ibid.

⁷⁴ 1955, File No. 1955-56-XII, Government of Pakistan, Cabinet Secretariat (Main), Cabinet Branch, "Summary of the Activities of Ministry of Defence from 1st April 1955 to 30th September 1955", 3.

find a job.”⁷⁵ He got the job and kept it as Ayub felt “that the employment of Muslim ex-Indian Army officers who had retired or left the Indian Army after partition was likely to affect adversely the Morale of Muslim officers at present serving with the Indian Army.”⁷⁶ He would continue in that capacity “until a suitable senior officer became available from the CSP cadre.”⁷⁷

Ayub was trying to quite transparently create a personal base of support in the military through the distribution of patronage amongst the officers and men. After he took over as president in October 1958, he continued the “policy of appeasement of the Army by giving them lands, increased pay and pension benefits and other venues of employment after retirement” which “tended to create a feeling of resentment” amongst the lesser mortals in society at large.⁷⁸ In addition to the quotas for induction of serving and retired servicemen into the support staff of civilian departments, Ayub stripped the business community of its autonomy, such as it was, and reinforced the patron-client relationship:

...modern business associations were at first largely free of government control and regulation, this too came to an end with the Ayub era. Under a government reorganization scheme adopted in 1958 and given legal effect by an ordinance in 1961, the government secured total power over the recognition and regulation of all associations in Pakistan representing trade and industry. Any organization not recognized by the government was illegal.⁷⁹

Furthermore, the Directorate of Trade Organizations possessed sweeping arbitrary powers over the internal management and functioning of business associations which

⁷⁵ 1954, File No. 214/CF/54, Government of Pakistan, Cabinet Secretariat, Cabinet Branch, Summary for the Cabinet, “Appointment of Major General Anis Ahmad Khan as Rehabilitation Commissioner Karachi”, Ref. Case No. 864/88/54, 1.

⁷⁶ Ibid., Cabinet Meeting, January 5, 1955, Case No. 11/1/55, “Appointment of Major General Anis Ahmad Khan as Rehabilitation Commissioner, Karachi”, 1.

⁷⁷ Ibid.

⁷⁸ *The Report of the Hamood-ur-Rehman Commission of Inquiry into the 1971 War*, 48.

⁷⁹ Stanley A. Kochanek, *Interest Groups and Development: Business and Politics in Pakistan* (Karachi: Oxford University Press, 1983), 70-1.

included the power to appoint administrators if it was unsatisfied with the performance of these associations. Intriguingly, at the time of his overthrow in March 1969, Ayub Khan's family was one of Pakistan's two dozen richest with an estimated worth of as much as twenty million dollars (in 1969 currency).⁸⁰ While Ayub and his senior praetorians may have been, like Clive after the conquest of Bengal, astounded at their own modesty and perplexed by the vicious public attacks being launched on their conduct, it is interesting to see the transformation of the military officer son of a *Risaldar* Major into the leader of one of Pakistan's richest families between 1955 and 1968. Ayub's legacy was that the military's influence was felt in all sectors of the state and economy. Industrialists who employed more than one hundred workers were required to reserve one-fourth of their posts for ex-servicemen. Half the posts in the civil defense forces from September 1959 were reserved for servicemen, while in the West Pakistan provincial government half of all vacancies in Class IV and one fourth in Class III were reserved for military retirees. On the agricultural side the military had become a medium through which members of the educated middleclass and lower-middleclass could become landlords, industrialists, and urban proprietors extraordinaire. That said, even the most prosperous concerns founded by Ayub were peripheral to the economy. The Fauji Foundation (1953) was worth one hundred and fifty-two million rupees in 1970, though, by 1982 the same foundation had total assets of two billion rupees inclusive of twenty-nine industrial projects.⁸¹ Ayub had laid the foundations of the neo-*mansabdari* system but its development into the vast and varied economic empire catering to everything from the

⁸⁰ Shafqat, *Civil-Military Relations in Pakistan*, 57.

⁸¹ *Ibid.*, 37.

production of breakfast cereal, the provision of education, and the welfare needs of over ten million ex-servicemen and their dependents, was made possible by the Bhutto regime.

Amongst Bhutto's first acts was to establish a Federal Security Force (FSF) that answered personally to him. By the end of 1976, the FSF had over eighteen-thousand five hundred men, nearly seven hundred and fifty vehicles, and a "modern wireless network."⁸² The FSF was equipped with semi-automatic rifles, machine guns, grenades, and rocket launchers, and tanks had been ordered but their operational use was prevented by high financial costs.⁸³ The FSF had direct access to the Intelligence Cell and Secret Service Fund as authorized by Interior Division.⁸⁴ In effect the FSF was Bhutto's praetorian guard and was used to intimidate and disrupt his political opponents and keep his colleagues in their place. The re-absorption of military personnel from East Pakistan as well as Bhutto's desire to make the military an instrument of his personal rule created contingencies that could be met by sharing the fruits of nationalization with the armed forces.

Some three thousand ex-servicemen were inducted into the FSF and the nationalized banks, insurance companies, and industries, were opened to military personnel.⁸⁵ Agricultural land was to be offered to military personnel for development with which the Fauji Foundation could also assist.⁸⁶ In addition to approving these schemes the feasibility of the Fauji Foundation to have a "separate organization to deal

⁸² *White Paper on the Performance of the Bhutto Regime* Vol. III, *Misuse of the Instruments of State Power* (Islamabad: Printing Corporation of Pakistan, 1979), 26.

⁸³ *Ibid.*

⁸⁴ *Ibid.*, 27. The authorization was communicated via Interior Division Letter No. 20/10/72-PP.

⁸⁵ 1974, File No. 382/CF/74, Cabinet Division, Progress Section, "Measures for Resettlement in Civil Life of the ex-Servicemen", 2.

⁸⁶ *Ibid.*, 3.

with small scale industries" was looked into.⁸⁷ Bhutto lavished funds on the military and army welfare-related activities raising the defense budget from about three billion rupees in 1971-1972 to over eight billion rupees in 1976-1977. Higher salaries, allowances, better insurance, as well as "plots of land at give-away prices to Junior Commissioned Officers", were thrown in for good measure.⁸⁸

Under Zia the neo-*mansabdari* system gained ground at an accelerating rate as a military government found itself in possession of billions of rupees in nationalized industrial and commercial assets. De-nationalization of some of these assets helped create pliant political front-men, such as the Ittefaq Group lead by Nawaz Sharif. The system also benefited enormously from the billions of dollars pumped into the country in the form of economic and military aid as well as the drugs and arms trade networks set up to lubricate the anti-Soviet struggle in Afghanistan. The growth of a hyper-autonomous military was reflected in Zia's unsurpassed generosity in allowing the wholesale privatization of cantonment lands. The worth of such land in the Karachi, Lahore, Peshawar, and Quetta cantonments alone, at "conservative estimate" is half a trillion rupees (eighty-six billion US dollars).⁸⁹ It is hardly surprising that the assets of a Pakistani general are at present estimated in the range of two to five million US dollars.⁹⁰ The Fauji Foundation, in 2005, had assets of ten billion rupees, up from two billion in 1982 and one hundred and fifty-two million in 1970.⁹¹

⁸⁷ Ibid., Cabinet Division, Case No. 167/35/74, "Measures for Resettlement in Civil Life of the ex-Servicemen", 2.

⁸⁸ Cloughley, *History of the Pakistan Army*, 236.

⁸⁹ Ayesha Siddiqi, *Military Inc.: Inside Pakistan's Military Economy* (Karachi: Oxford University Press, 2007), 189. The current exchange rate is approximately sixty Pakistani rupees for one US dollar.

⁹⁰ Ibid., 174.

⁹¹ Ibid., 119.

The opposition to this kind of economic extraction has inspired everyone else, from politicians and bureaucrats, to judges, corporate employees, academics, and journalists, to set up shop and lobby for a share of state land at rates well below market value. They, too, want to become neo-*mansabdars* and their criticism of the military is one of the clearest manifestations of the flagrant hypocrisy of the Pakistani group mind comprised as it is of the expressions of moral equals operating from unequal positions of power. The impact of this mentality has on civil-military relations is that neither side knows quite when to stop.

4.6 Civilian Overreach and Military Overstretch

In Pakistan the military rapidly acquired political importance and by 1958 was directly ruling the country. This initial reversion to a medieval power configuration stemmed from a number of factors. The major structural variables were conflict with India, American military assistance, excessively rapid promotions in all sectors of the state, including the military, to fill the void left by departing British officers, the breakdown of the Pakistan Muslim League's cohesion, and the remarkably high ethnic-class cohesion of the Pakistan army owing to the concentration of pre-independence recruitment grounds in West Pakistan. The major idiosyncratic contribution to the evolving mess was the failure of successive civilian leaders and civil servants, Ghulam Mohammed and Iskander Mirza in particular, to understand the requirements for the perpetuation of a State of Laws.

Pakistan's westernized civilian and political elite did not realize that in destroying the autonomy of the institutions inherited from the British (the Constituent Assembly, the provincial assemblies, local governments, the higher judiciary, political parties, etc.) and inviting the army chief into the cabinet as defense minister, they were preparing the ground for their own downfall. There was a fundamental intellectual failure at the highest levels to grasp that the broad spectrum of institutions developed by the British over many centuries were designed, at their core, to contain and subordinate military power to civilian authority. It is often forgotten that it was Iskander Mirza, the civilian and constitutional head of state, who abrogated the constitution and declared martial law, not Ayub Khan.

Once the military reacquainted itself with the taste of political power the entire fabric of constitutional development came crashing down. The inability of the military leadership to perpetuate its hold provided the civilian leadership with a second chance in 1973 and a third chance in 1988. On each occasion the civilian leadership demonstrated that it had learnt nothing from its own and the country's tragic experience. On the one hand the wise and measured exercise of arbitrary power can provide a degree of performance legitimacy. On the other hand the capricious and unenlightened exercise of power lawfully acquired rapidly depletes the reservoirs of legitimacy. The military did not prevent Zulfikar Ali Bhutto or Benazir Bhutto or Nawaz Sharif from exercising power in accordance with law, reason, and compassion. Between the persistent inability of the military to produce a wise and effective sovereign, and the equally dogged determination of the civilian leadership to exercise even the smallest scrap of lawfully

acquired power as arbitrarily as possible, Pakistan is trapped in a cycle of instability with the military and civilian political leadership destabilizing each other.

The military leadership is intolerant of even the pretence of civilian control over its finances, weapons procurement, and its conduct of foreign policy. The civilian political leadership perceives the military as a potential instrument of their own arbitrary rule and wants a servile military leadership. It was the pursuit of this kind of servility that led the elder Bhutto to appoint Zia as army chief superseding seven more senior generals. Nawaz Sharif's farcical handling of senior civil and military appointments culminating in his attempted dismissal of Musharraf and replacement by an openly loyalist general on October 12, 1999, was precipitated by his desire to place the army and the Joint Chiefs of Staff Committee (JCSC) "in the hands of one pliable individual who would do precisely what he wanted."⁹²

Musharraf, for his part, has established a National Security Council (NSC) in which the service chiefs sit directly opposite elected representatives and thus by design has dragged the military formally into politics and robbed his civilian protégés of the regime of even the pretence of autonomy. The federal cabinet is patently held together by patronage with a record-breaking seventy-seven federal ministers and ministers of state out of a ruling coalition of two hundred Members National Assembly (give or take ten). The transfer of military pensions to the civilian side of the budget, the summoning of prime ministers and senior state officials to "brief" or "meet" the president and corps commanders at military headquarters of the army chief's camp office indicate an approach to politics comparable to a military brass band's performance of classical European music. Pakistan's military leadership, like its civilian counterpart, has failed to

⁹² Cloughley, *History of the Pakistan Army*, 332.

comprehend the difference between a medieval state, in which the country is the estate of a ruler legitimized by divine sanction or ideology, and a State of Laws.

In the Pakistani context the United States has also played a less than admirable role. Its enormous economic and political power have repeatedly been put at the service of Pakistani military strongmen – Ayub Khan, Yahya Khan, Zia-ul Haq, Pervez Musharraf. These resources have, among other things, produced grave distortions in the Pakistani state and rendered Pakistani society even more ungovernable. For instance, both Pakistan's *jihadis* and the tens of thousands of NGOs are the direct outcome of American largesse. American advice, ranging from the Harvard Advisory Group of the 1960s to the present day devolution plan, has practically annihilated the capacity of Pakistan's westernized elite to think rationally about its own predicament. While the numerical strength of the army is a response to the Indian threat, the economic privileges enjoyed by its officers are made at least in part possible by American largesse. They are also disproportionate, the cause of immense resentment, and ultimately not in the military's own interest.

The direction in which successive cycles of civil-military mutual destabilization have taken Pakistan in is down.⁹³ At the conclusion of each cycle the effectiveness, credibility, and quality of the state decreases substantially. So far, the institutional framework left behind by the British Empire has continued to provide life-support. There is, however, a limit to punishment that any state can take. The past few years have

⁹³ Stephen Cohen characterizes the military's relationship with politics as a five-step dance. The first step involves warning the civilian government of the impact its lack of competence and whimsicality is having on the country. Second, a crisis emerges that is deemed too great for the civilian regime to handle and precipitates military intervention. Third, a period of trying to sort out the country's problems through direct military control of the state and society ensues. The problems remain unsolved and thus the fourth step involves bringing on board politicians and reviving the forms of civilian rule. Finally, the army carefully reasserts itself "behind a façade of civilian government" and remains poised to regain overt control. Stephen P. Cohen, *The Idea of Pakistan* (Washington D.C.: The Brookings Institution Press, 2004), 124.

witnessed the liquidation of the civil service as a meaningful instrument of order and the creation of a class of incipient warlords dependent on handouts from the military-dominated center in the name of devolution.

Most disturbing, however, is the invidious impact that Musharraf's desire to prolong his personal rule is having on the military itself. One must bear in mind that successive military rulers were forced out by the actions of their immediate subordinates which, potentially, could have led to violence. Were it not for civilian interruptions the military may well have already broken down into rival factions locked in armed struggle for control of the levers of power and patronage. The military cannot in any seriousness think that it is somehow immune to the contradictions that afflict Pakistani society. Indeed, the military has exploited and aggravated many of these fault lines. The impact of this instability is felt in terms of the decline of the rule of law and the collapse of the state of order.

CHAPTER FIVE

GUARDIANS

5.1 Theseus and Solon

Theseus the demigod was a great Athenian hero of legend. Amongst other great feats of valor and courage, Theseus slew the dreaded Minotaur, Periphetes the Club-bearer, Sinis the Pine-bender, and Phaea the wild sow. Theseus was a great lover of justice and went out of his way to seek and punish the wicked. He would mete "out to them the same violence that they had inflicted upon others, so that they were forced to submit to a justice that was modeled on their own injustice."¹ His fellow Athenians were "struck with admiration at his courage and delighted at his public spirit."² Solon was another Athenian leader who demonstrated a greatly admired public spirit, although in his case it arose from a very different source.

Solon believed much to his friend Anarcharsis's amusement, "that his countrymen's injustice and greed could be kept within bounds by means of written laws" arrived at through reasoned argument in the public interest.³ Anarcharsis dismissed Solon's fondness for the sovereignty of laws and compared them to a "spider's web" that "would hold the weak...but would be torn to pieces by the rich and powerful."⁴ Solon's response was that people "abide by their agreements" not because of any inherent goodness but "when neither side" had "anything to gain by violating them."⁵ The

¹ Plutarch, *The Rise and Fall of Athens: Nine Greek Lives*, trans. Ian Scott-Kilvert (London: Penguin Books, 1964), 20.

² Ibid., 23.

³ Ibid., 47.

⁴ Ibid.

⁵ Ibid.

challenge was to harness the propensity for excess intrinsic in men and channel it so that its most pernicious effects were mitigated.

In 594 BC, Solon's reputation for wisdom and the mutual exhaustion of the contending parties led the Athenians to ask him to arbitrate and accept the position of tyrant. Solon agreed to arbitrate in the official capacity of archon but refused to become a tyrant. His "intimate friends" were furious with him for "turning his back upon absolute power" and pleaded that he ought to consider the offer for his numerous virtues were so well-admired that everyone had confidence in his ability to wield arbitrary power justly.⁶ It did not dawn on his friends and admirers that the truly virtuous do not seek absolute power and Solon's harshly realistic assessment of human nature led him to put little faith in his own ability to resist the temptations that would doubtless flow from the acquisition of such power. Solon proceeded to prepare for Athens in consultation with the feuding parties a sovereign law or constitution that would remain in effect, depending on one's source, for ten years or one hundred, before being subjected to fundamental revision.

Solon's first step was to secure the repeal of the Draconian laws which prescribed death as the penalty for more or less all serious transgressions and had contributed much to Athens becoming ungovernable. Athenian society was divided into four classes with the top three property-owners of varying degrees and the fourth comprising those without property. The first three classes could hold office in the council while the fourth could vote in the great Assembly (Ecclesia), sit in juries, and enjoy legal protection as citizens. Solon allowed property-owners to execute wills that enabled them to bequeath their assets to anyone they wanted to and thus "showed that he rated friendship above ties of blood and free choice above necessity, and the effect of his law was to make every man's

⁶ Ibid., 65.

possessions truly his own.”⁷ While creating popular courts and granting citizenship to the Athenian poor, Solon retained the aristocratic judicial council, or Areopagus, as a check on the assemblies and juries. Once the parties agreed to abide by Solon’s laws a copy was made on tablets, mounted, and kept at the Acropolis for all to see. Solon himself decided to leave the city for a decade in order to allow the new Athenian State of Laws to find its feet. He felt that if he stayed then he would become an extra-constitutional source of authority. Later, Solon when “asked whether he provided the best laws for the Athenians” replied ““The best that they would accept.””⁸

Solon knew all too well that “men are by nature both ambitious and suspicious, and know not how to use moderation where their fortunes are concerned.”⁹ The concessions granted by Solon emboldened the party of the Hill which found leadership in Solon’s cousin, Peisistratus. Solon had warned against his cousin’s tyrannical ambitions to no avail. Peisistratus and his followers staged a coup and promised to do even more justice with the poor and oppressed.¹⁰ The other parties banded together and drove the tyrant out only to come to blows amongst themselves allowing him and his followers to stage a comeback. Soon Peisistratus anointed his sons as his successors and converted Athens into an aspiring monarchy. For a while tyranny secured for Athens an uneventful and placid prosperity.¹¹

In 514 BC, a powerful reaction began that in six years brought forward another outstanding statesman in the Solonian mold. This was Cleisthenes, who shared his name

⁷ Ibid., 63.

⁸ Ibid., 57.

⁹ Niccolo Machiavelli, *The Discourses*, trans. Leslie J. Walker, ed. Bernard Crick, rev., Brian Richardson (London: Penguin Books, 2003), 181.

¹⁰ H. B. Cotterill, *Ancient Greece: Myth and History* (New Lanark: Geddes & Grosset, 2004), 200.

¹¹ Ibid., 202.

with his grandfather the tyrant Cleisthenes of Sicyon. Fortunately for Athens, Cleisthenes did not share his grandfather's politics. Cleisthenes reformed the legal structure of Athens and abolished the old tribes based upon kinship, location and economic status, and replaced them with ten tribes subdivided into thirds taken from different parts of the country. Each tribe elected fifty representatives to the council and each group thus constituted acted as the standing committee for thirty-six days of the year. The Ecclesia was tasked with voting upon legislation, taxation, and defense proposals made by the elected representatives in the council. The Ecclesia met every ninth day and had the power, if at least six thousand citizens thus decided, to exile any citizen perceived to be a danger to the state. The Areopagus was retained though its power remains a matter of speculation. The fact that Pericles the demagogue condemned it and overthrew it with the support of the people indicates that it had some nuisance value. Other states in the classical Mediterranean, such as Rome which wrote down its laws in 450 BC, imitated the Athenian example with greater or lesser success. In the case of both Athens and Rome imperial expansion eroded the authenticity of their representative institutions. However, this digression into classical Greek history helps illustrate the difference between the rule of justice and the rule of law. Theseus and Peisistratus represent the former while Solon and Cleisthenes are manifestations of the latter. The two conceptions flow from understandings of human nature at considerable variance with each other.

The belief in the rule of justice is derived from a profoundly optimistic assessment of the malleability of human nature. Power, it is maintained, if exercised by good and righteous people, will have beneficial effects and the pursuit of justice requires that such individuals be elevated and empowered to allow their virtue to express itself

freely. Such goodness can only be produced by faith, ideology, or some other kind of metaphysical inspiration capable of motivating the power-wielder to behave righteously. Once this is achieved, public morality shall flow naturally from the heightened personal morality of the individuals that comprise society.

The belief in the rule of law is at its roots pessimistic and puts little stock in the capacity of the human race to act in a collectively positive manner. It maintains that power is innately debasing and arbitrary power unleashes the darkest and the most destructive human propensities. These propensities are rendered even more dangerous if they are reinforced by religious or ideological dogmas that generate self-righteousness and accomplish the fusion of the arrogance of power with the arrogance of piety. Although highly imperfect, a device that can be used to control human nature, mitigate its most deleterious effects, and push societies towards stability and prosperity, is the rule of law. By that is meant rational laws based upon empirical appreciation of human nature that balance the interests of the governed with those of their rulers, allow for change, and express themselves through institutions and a constructive or virtuous public ethos.

The essential difference between Britain and the Greco-Roman civilization was that the civil wars and conflicts of the former ended in triumph for the rule of law while those of the latter in the rule of arbitrary justice by despots posing as divinity incarnates.¹² Britain stood out by the eighteenth century as the exemplar of a neo-classical State of Laws where the executive and legislative powers balanced each other and were in turn checked by a powerful judiciary.¹³ In Britain the "idol of arbitrary power" was "drowned in seas of blood" and though other lands and peoples had "shed as much blood; but then

¹² Ben Ray Redman, ed., *The Portable Voltaire* (New York: Viking Penguin Inc., 1977), "Selections from the English Letters", 513.

¹³ Montesquieu, *The Spirit of Laws*, 151-62.

the blood they spilled in defense of their liberty served only to enslave them the more."¹⁴

In other parts of the world, be it Iberia or Anatolia, the rule of arbitrary justice prevailed and should a locality take up "arms in defense of its privileges" it stood to be "stormed by mercenary troops" and "punished by executioners" leaving "the rest of the nation" to "kiss their chains."¹⁵ Indeed, while the State of Laws was a Solonian enterprise the continental bureaucratic empire with its concentration of sovereign authority and ideocratic pretensions was animated by the spirit of Theseus.

One such state was the Ottoman Empire. In the fourteenth and fifteenth centuries, the Ottoman Turks brought order to the prevalent chaos in their region through the creation of a body of slave soldiers (the janissaries) and a single-minded pursuit of centralization. By the end of the fourteenth century, the Ottoman Empire encircled the Byzantines. Within the Ottoman domain "Only the decree of the sultan could establish any income or privilege" and "a centralized administration" supplanted "feudal decentralization" in the Balkans.¹⁶ As the Ottoman Empire expanded in the 1300s "the bureaucratic traditions of near eastern states" came to dominate "statecraft and administration."¹⁷ At the heart of the Ottoman Empire was the organizing principle that the subjects and all their land belonged to the sultan.¹⁸ The purpose of the state structure was to ensure the effective exercise of the sultan's universal proprietorship. The system of military and administrative slavery meant that the army and bureaucracy were also "owned by the ruler."¹⁹

¹⁴ Redman, ed., *The Portable Voltaire*, "Selections from the English Letters", 514.

¹⁵ Ibid.

¹⁶ Halil Inalick, *The Ottoman Empire: The Classical Age 1300-1600* (London: Phoenix, 2000), 13.

¹⁷ Ibid., 65.

¹⁸ Ibid., 73.

¹⁹ Daniel Goffman, *The Ottoman Empire and Early Modern Europe: New Approaches to European History* (Cambridge: University Press, 2002), 49.

Wise sultans, like Mehmed the Conqueror (reigned 1444-1446 and 1451-1481) and Suleiman the Lawgiver (1520-1566), understood that the effectiveness of their writ and quality of governance within their estate depended upon the intellectual and moral caliber of their servants. The slaves from whom the bureaucracy and military officers were recruited received specialized education and training. Enslaved in childhood, these trainees were taught mathematics, prose, philosophy, literature, religion, history, administration, arts, crafts, military science, and law, up to the age of about twenty-five. Given their aptitude, assignments were made to judicial, administrative, and military posts. The most competent were attached to the Palace, which had about seven hundred officials in the sixteenth century. The Ottoman rulers were particularly concerned with doing justice to their flock and the imperial proprietorship was regarded as a guarantee that the arbitrary power of the sultan would protect the meek. If injustice occurred it was because the sultan was not informed and periodic purges of senior officials and theocrats reinforced the sultan's image as just.

In the subcontinent it was the monarch's supreme duty to dispense justice and for this purpose he had to demonstrate both his omniscience as well as temporal omnipotence. In the Timurid Empire, like its predecessors, a number of cases were regularly brought to the emperor's notice so that they may do justice to their subjects. It was held that "only an absolute ruler" could provide "absolute justice" being so far above the petty concerns of the rest of humanity that he would never "moderate justice with expediency".²⁰ To the Timurids, as to Theseus, "it was essential that the punishment should match the crime", symbolically, if not literally.²¹ Such justice was often

²⁰ Eraly, *The Mughal World*, 237.

²¹ Ibid.

administered in a fit of righteous wrath.²² Akbar, who believed himself to be absolutely just, had a lamp-keeper flung to death for falling asleep. His finance minister, Khawja Mansur, was executed when compromising letters fell into imperial hands. *After* the execution an investigation was ordered which found the letters to be forged. Jahangir put up a belled-chain outside his palace so that the poor could ring it and awaken the emperor to any injustice perpetrated in the realm. This farcical exercise was a purely symbolic ornament – in an empire of a hundred million subjects distributed across hundreds of thousand of villages with practically no means of communications not many could benefit. Jahangir also kept poisonous snakes at the ready to bite officials found to be unjust and while on a hunt ordered a groom executed for disturbing the prey. To the Timurids “crime was what offended the emperor” and similar arbitrariness and outright confusion “prevailed at the lower levels of the...judicial administration.”²³ The organizational chaos of the judicial administration reinforced the arbitrary power of the emperor and his officials. Imperial arbitrariness and self-righteousness set the tone for those lower down the chain of command in the administration of justice and maintenance of order. Bribery was endemic, perjury a given, forgery a practicality. The judiciary, servile, incompetent, and corrupt, was openly held in contempt by other officials and society at large for “What one got in the” justice-loving Timurid system “was not justice, but one’s fate.”²⁴

British imperial rule brought changes to the administration of justice and maintenance of order. The core principles of the reorganization were to professionalize the officer corps of the police, codify and clarify laws and procedures with reference to

²² Ibid., 238.

²³ Ibid.

²⁴ Ibid., 266.

local conditions, and judicial autonomy from the executive at the middle and higher levels. The civil service acted as a critical link in the entire system as it exercised limited magisterial powers subject to appeal to the sessions court and supervised the police. The greater prestige and importance of the civil service, however, meant that it had greater freedom of action than the statutory positions may indicate. A percentage of the ICS opted for judicial posts and although life in the judiciary was not as glamorous as in the executive branch the pay was ten percent more. This added to the prestige of the judicial service and also helped attract more talent from the private sector. The judiciary exercised the power to inspect police diaries, reverse decisions taken by executive magistrates, and adhered to a proud tradition of functional autonomy from the executive dating back to the first regulating acts and reforms of the 1770s and 1780s.

This autonomy was partially secured by the dual linkage enjoyed by the judiciary. One third of the judges at the high court level were drawn from the ICS whereas the rest were recruited from the Bar. The effect of drawing into its ranks a large number of highly qualified people was that the judiciary was remarkably efficient. By the late nineteenth century it disposed of nearly five million civil and criminal cases annually. What made this possible was that the integrity and probity of the Indian judges such as *munsifs*, itself a relatively recent development, was "a cause for thankfulness" that judicial corruption and delinquency had been mitigated.²⁵ The growth of public virtue applied "equally to the superior members of the native Bar" whose prestige made them the leaders of Indian society.²⁶ In Bengal alone the total number of civil suits in 1893 was six hundred and fifty thousand out of which five hundred and fifty-four thousand were instituted that year

²⁵ *Report on the Administration of Bengal 1874-1875* (Calcutta: Bengal Secretariat Press, 1876), 33.

²⁶ *Ibid.*

and some five hundred and sixty thousand were disposed of by the courts by 1894.²⁷ Experience had validated the hypothesis that properly remunerated, trained, tested, and organized "the natives, in respect to integrity and diligence, may be trusted with the administration of justice."²⁸

The police administration was in many ways the *enfant terrible* of the British Empire in India. The 1855 Commission for the Investigation of Alleged Cases of Torture in the Madras Presidency received in response to its notice nearly two thousand complaints.²⁹ The mandate of the Torture Commission included abuses by police and the revenue department and it noted that the vast majority of the complaints probably went unheard.³⁰ What perturbed greatly was the public perception that the cruelties perpetrated by the subordinate staff and Indian officials must be on the orders of British officials.³¹ When it came to torture it was the near "universal opinion among the natives themselves that in Criminal cases the practice" was "not only necessary but right."³² The use of torture against alleged criminals to extract confessions and provide prompt justice excited "no abhorrence, no astonishment, no repugnance" amongst the Indians.³³ The locally constituted police was "a terror to well disposed and peaceable people, none whatever to thieves and rogues" and accurately regarded as "the bane and pest of society."³⁴

The basic problems were that the regular police lacked sufficient numerical strength, was inadequately supervised, and stretched thin by the vastness of the territory

²⁷ *Report on the Administration of Bengal 1893-1894* (Calcutta: Bengal Secretariat Press, 1894), 14.

²⁸ *Selection of Papers from the Records of the East India House*, Vol. II, 13.

²⁹ *Report of the Commissioners for the Investigation of Alleged Cases of Torture in the Madras Presidency* (Madras: H. Smith at the Fort St. George Gazette Press, 1855), 23.

³⁰ *Ibid.*

³¹ *Ibid.*

³² *Ibid.*, 49.

³³ *Ibid.* The 1872 Evidence Act made confessions in police custody or to officials of the police inadmissible in court.

³⁴ *Ibid.*, 62.

they had to account for. Compounding these technical impediments was the overall nature of policing in the centuries that had preceded British rule. In pre-British India the function of the police "was not to prevent or to detect crime" but to "put down disorder and facilitate the movements of the army" and keep official channels of communications open.³⁵ The police force was an amorphous mass of armed men – retainers, officials, inspectors, spies, paramilitaries – deployed in order to help extract as much revenue as possible, keep a share for itself, and quell the resultant disorders. It may or may not have also drawn a regular pay. While we must be wary of the Timurid tendency to class all non-specialist (i.e. other than cavalry and artillery) employees as infantry, Abul Fazl asserts that some four million four hundred thousand armed men were in the service of the *zamindars*.³⁶ Policing was thus primarily an exercise in deterrence and suppression through military means.

The British found that altering the formal structure of the police by dividing it into deterrent and detective wings deployed across individual provinces, introducing new laws such as the Indian Penal Code (IPC) in 1861, instituting new methods for recruitment and evaluation or gradually civilianizing the police force was comparatively easy. What was terribly difficult was altering its ethos. When it came to dealing with the poor, especially when investigating suspects, the police made haste to produce someone or the other before the courts. Since a list of the local *badmash* elements was maintained this was not too hard. The impression prevailed that a competent policeman was the one who secured a high number of convictions under the law. When the suspect had some wealth the police took their time, applied pressure, and hoped for monetary inducements. The result

³⁵ R. Bosworth Smith, *Life of Lord Lawrence*, Vol. I (London: Smith, Elder & Co., 1883), 290.

³⁶ Abul Fazl Allami, *A'in-I Akbari*, trans. H. Blochmann (Calcutta: Calcutta Madrassah, 1873; reprint, Lahore: Sang-e-Meel Publications, 2003), 225.

was that the police stood correctly charged with both arresting suspects too quickly as well as abstaining longer than necessary from arrest.³⁷ Constables and subordinate officers routinely asked for tips, which, in many cases, were offered without asking, for the performance of their statutory duties. The division of crimes and offences into cognizable and non-cognizable (which required a summons by a magistrate) led to certain problems:

...the work of the Superintendents of Police is known and judged by other standards than statistical tests, and all those who work conscientiously and honestly invariably come in for a full amount of praise. But to return to the non-cognizable cases: the amount of work performed in these cases is immense, and for it the Police get little credit; What with summoning and arresting 20,155 persons and the enquiry into 14,205 attempts at burglaries, an Indian policeman's life is not one of ease and comfort.³⁸

An Indian prisoner's life was even less comfortable given that lockups in many police stations were "worse than any 'black hole' of Calcutta."³⁹ During the warm and rainy season detention amounted "to a sentence of slow death by suffocation."⁴⁰

In Bengal, where the regular police numbered eighteen thousand five hundred and fifty by 1875 as compared to about twenty thousand in the Punjab and twenty-one thousand in the Bombay Presidency, it was found that the majority of Indian inspectors were held in esteem "by their superiors and their countrymen."⁴¹ Many of the sub-inspectors (SI) were good though as a group they suffered from malpractices much like the "old police".⁴² The sub-inspector's "neglect, collusion, or concealment" could ruin a case at its inception making "subsequent rectification by superior officers" a most

³⁷ E. Tyrwhitt, *Report on the Administration of the Police of the North-Western Province for the Year 1873* (Allahabad: North-Western Provinces' Government Press, 1874), 8.

³⁸ *Ibid.*, 20.

³⁹ *Ibid.*, 23.

⁴⁰ *Ibid.*

⁴¹ *Report on the Administration of Bengal 1874-1875*, 24.

⁴² *Ibid.*

arduous process.⁴³ The SI was identified as the key to the improvement of the overall policing function. The constables and head constables were qualitatively indifferent and routinely indulged in corruption such as destroying evidence, mistreating prisoners and engaging in "the constant receiving of petty gratifications."⁴⁴ The village police though capable of effective policing if properly supervised was too numerous, ill-paid and spread out. They were prone to becoming "the principal promoters and abettors of crime."⁴⁵

While these were very real problems the British Indian state had broken the back of "the spirit of agrarian lawlessness" that had enveloped the subcontinent.⁴⁶ In the Punjab the "interior of most of the frontier districts" were by 1876 "as tranquil and orderly as that of any districts to the west of the river Indus."⁴⁷ As chaos gave way to order exercised under laws through the ICS, IPS and judiciary, new exams for the subordinate executive services and judicial appointments encouraged merit and provided the state with a solid bureaucratic middle-order. Of the one thousand seven hundred posts in the un-covenanted Bengal provincial services in 1875 over nine hundred were Indians.⁴⁸ What was especially notable was that many people of landlord backgrounds had taken to professions such as law and public service thus converting the most lawless elements into servants and protectors of law and order.⁴⁹ By 1875, the *zamindars* no longer kept armed retainers and owing to this there was a decrease in gang-robbery.⁵⁰ This particular change was therefore "not creditable to our organized police."⁵¹ Although

⁴³ Ibid., 24-5.

⁴⁴ Ibid., 25.

⁴⁵ Ibid., 26.

⁴⁶ Ibid., 30.

⁴⁷ *Report on the Administration of the Punjab and its Dependencies for the year 1875-1876*, 30.

⁴⁸ *Report on the Administration of Bengal 1874-1875*, 4.

⁴⁹ Ibid., 15.

⁵⁰ Ibid., 28.

⁵¹ Ibid.

the rate of prisoner mortality fell to about thirty-two per hundred thousand in 1893-1894 from twice that amount twenty-five years earlier, it was still excessive as compared to other parts of the country.⁵²

After 1893 Indians were allowed into the IPS through competitive exams within the ranks of inspectors and from 1921 onwards regular induction was started with separate exams for the IPS and ICS. As a covenanted service the IPS enjoyed prestige comparable to the ICS and after the deputy commissioner it was the deputy superintendent of police (SP) or "captain sahib" who mattered the most. The British achievement was that over a very large part of the subcontinent a regular police force constituted under laws and administered through a rational legal framework within which the judiciary enjoyed and deserved public esteem had been established. People and the servants of the state obeyed the law not because they had become morally good but because the interplay of institutions, consistency, and autonomy, had created an environment in which it was substantially in their interest to do so. The role of the Indians in the judiciary and police was on the whole commendable and the self-criticism of the official reports and commissions was itself the sign of a healthy discourse. The challenge for the leaders of India and Pakistan was to extend the regular justice system to those areas where imperial interests had deemed otherwise and infuse the apparatus and those it affected with a progressive, liberalizing, and modernizing spirit. Indeed, outside of Western Europe the "law and order" administration of the subcontinent was possibly the best and could be reformed into something even better. In Pakistan, however, Solon's victory over Theseus proved evanescent.

⁵² *Report on the Administration of Bengal 1893-1894*, 14. The prisoner mortality rate was about thirty-two per thousand in the Punjab in 1875-76.

5.2 In the State of Emergency

The rule of law has its juridical, legislative and administrative dimensions. Though these cannot be neatly compartmentalized the first concerns itself with constitutional issues and disputes that require deliberation, the second with the drafting and passage of laws, while the third is more commonly identified with the executive functions of the state. Taken together the effort is to restrain the arbitrary and unlawful exercise of power by applying, interpreting and enforcing the sovereign and ordinary laws of the land. If successful the effect is that those elected to office or appointed to senior positions such as the army chief, chief justices, chairmen of national corporations etc., under the law will be prevented to a substantial degree from acting unlawfully. In Pakistan by October 1958 the juridical and legislative aspects of the rule of law were effectively subordinated to an aggrandizing executive power. This process was not undertaken with violence or bloodshed but carried through with the active collusion of senior members of the judiciary led by the Chief Justice of the Federal Court, Muhammad Munir.

The greatest casualty of this collusion was the Constituent Assembly which had unquestionably proceeded slowly with the framing of a new constitution for Pakistan. This slow rate of progress had something to do with the desire of the members of the assembly to prolong their own tenures and it had a great deal to do with the complexities inherent in framing a constitution for a state as diverse and geographically divided as Pakistan. In March 1954, the United Front in East Bengal trounced the Muslim League in provincial elections and secured two hundred and thirty-two seats out of a house of three

hundred and nine. The Muslim League secured a mere ten seats which led to the charge that the Constituent Assembly in which it enjoyed a majority had lost the confidence of the people. Some demanded that the Constituent Assembly be dissolved and a new assembly be convened. The counterargument was that in a federal system defeat in provincial elections did not invalidate the ruling party's position in other provincial legislatures or the central legislature.

At any rate, the difference "among the heterogeneous elements of the United Front" surfaced almost immediately and even at "the swearing in ceremony" at the Government House on April 3, 1954, "a group of pro-Awami League students" were demonstrating and swearing out the chief minister designate Fazlul Haq "for including a relative of his in the cabinet."⁵³ The allocation of ministerial portfolios sent shockwaves through the increasingly disunited Front and by May 1954 the province descended into violence, labor unrest, and the targeting of non-Bengalis, with hundreds killed and thousands injured at the Adamjee jute mills.⁵⁴ On May 30, 1954, the United Front ministry was dismissed, governor's rule imposed, and Iskander Mirza sent to assume charge of the province.

Back in Karachi, the Constituent Assembly picked up the pace and Premier Bogra tried to loosen the grip the governing corporation had on him since his installation in April 1953 following Nazimuddin's dismissal. Bogra's objective was to get the new constitution approved so that it would enter into effect on January 1, 1955. For once, the assembly proceeded ahead of schedule and appeared by the end of October 1954 to be on course for a passage of the draft Constitution Bill. Fearing that the governor-general

⁵³ S. G. Jilani, *Fifteen Governors I Served with: The Untold Story of East Pakistan* (Lahore: Bookmark, 1979), 9.

⁵⁴ *Ibid.*, 10.

would react badly to the provisions in the draft constitution which practically reduced the head of state to a cipher and established a bicameral legislature in which East Bengal would dominate the lower house, Bogra moved to protect himself. On September 20, 1954, the Constituent Assembly repealed PRODA and amended the 1935 Government of India Act to take away the head of state's powers of dismissal of ministers.

On October 24, 1954, the governing corporation struck back days before the final debate on the Constitution Bill was to take place. Ghulam Muhammad proclaimed a state of emergency and dissolved the Constituent Assembly on the grounds that it could "no longer function". The non-functionality of the Constituent Assembly was challenged by its president Moulvi Tamizuddin Khan at the Sindh Chief Court. The public reaction was mixed though on balance it was "acclaimed in both wings; messages of congratulations to the Governor-General poured in by the hundreds and continued to be published in the newspapers well into the second week of November."⁵⁵ Earlier, the dismissal of Khwaja Nazimuddin's government and his betrayal at the hands of his ministers and the members of the party "though generally considered illegal, was welcomed by the people."⁵⁶ As the Constituent Assembly fell it was felt that "the country...had been saved."⁵⁷ Politicians and members of the public who had "challenged the democratic legitimacy of the Constituent Assembly"⁵⁸ and poured scorn upon it for having "misused and abused the power delegated to it by the people"⁵⁹ now looked forward to justice being done.

Tamizuddin Khan managed to sneak into the courts and evade the intelligence personnel deployed to intercept him by "arriving in a rickshaw through the side gate clad

⁵⁵ Inamur Rehman, *Public Opinion and Political Development in Pakistan 1947-1958*, 151.

⁵⁶ Jilani, *Fifteen Governors I Served With*, 1.

⁵⁷ Inamur Rehman, *Public Opinion and Political Development in Pakistan 1947-1958*, 151.

⁵⁸ *Ibid.*, 146.

⁵⁹ *Ibid.*, 150.

in a burqa.”⁶⁰ When the intelligence personnel realized that they had been outsmarted they tried to seize the petition but the timely intervention of “the Registrar of the Sindh Chief Court” and the Chief Justice George Constantine “saved the situation.”⁶¹ The Chief Court asserted that “There now resides in the Constituent Assembly the sovereign power” and given that the British monarch’s “own intervention to give validity or force to measures of the Constituent Assembly was not required”, it was “anomalous to say that the intervention” of the governor general in his capacity as the monarch’s representative was required.⁶² The Chief Court stated that there was “no case throughout the Commonwealth outside England”, which did not have a formal constitution, “where the dissolution of a Legislature takes place except by express provision in the Constitution, whether granted by Statute or order in council.”⁶³ Consequently, the purported dissolution or declaration of non-functionality was “a nullity in law.”⁶⁴ Moreover, as previously the Federal Court had decided cases arising from laws passed by the Constituent Assembly that had not received the head of state’s assent, the judiciary clearly did not think such assent to be necessary for laws to be passed. Therefore, Section 223A of the modified Government of India Act under which Tamizuddin had asked for relief against the governor-general’s actions was as lawful as say the 1951 Act that extended universal adult franchise which had also not received his formal assent. Ghulam Muhammad had acted under no law and therefore the new cabinet, which included Ayub Khan as defense minister, was illegal. Tamizuddin was still the president of the assembly

⁶⁰ Syed Sharifuddin Pirzada, ed., *Dissolution of Constituent Assembly of Pakistan and the Legal Battles of Moulvi Tamizuddin* (Karachi: Asia Law House, 1995), i.

⁶¹ Ibid.

⁶² Ibid., 118.

⁶³ Ibid., 126.

⁶⁴ Ibid.

which did not stand dissolved under law. The governing corporation appealed this decision to the Federal Court where a five-member bench comprising Chief Justice Munir and justices Sharif, Rehman, Akram, and Cornelius,⁶⁵ heard the case.

Munir, Sharif and Rehman upheld the dissolution of the assembly and overturned the Sindh Chief Court's verdict. They asserted that it was wrong "to suppose that sovereignty in its larger sense was conferred upon the Constituent Assembly" and all acts "passed by it required the Governor-General's assent."⁶⁶ Since Section 223A of the Government of India Act as modified by the non-functional Constituent Assembly that gave the courts powers to review the head of state's decisions and issue writs of quo warranto and mandamus had not been formally approved by the governor-general the Sindh Chief Court had no authority to countermand his orders. While Akram abstained, Cornelius dissented and observed that such consent had not been considered necessary and bills became laws through assembly votes followed by the president of the assembly signing them and sending them for notification in the *Official Gazette*.⁶⁷ The granting of universal adult franchise and forty-five other acts had not received the governor-general's assent and had led to litigation in the courts and "produced extensive effects."⁶⁸

Having saved his mentor, Munir's decision plunged the country into a legal limbo as dozens of acts stood repudiated by virtue of the lack of the governor-general's assent. Ghulam Muhammad issued in the manner of an imperial edict the Emergency Powers

⁶⁵ For more in Cornelius see Ralph Braibanti, ed., *Chief Justice Cornelius of Pakistan: An Analysis with Letters and Speeches* (Karachi: Oxford University Press, 2000). Intriguingly, Cornelius "wanted to extend the jirga system" into the settled districts and praised it as a means of controlling the crime rate. *Ibid.*, 35. In 1965, at the Third Commonwealth and Empire Conference on Law "he suggested a modern variation of the amputation of limbs as a deterrent." *Ibid.*

⁶⁶ Pirzada, ed., *Dissolution of Constituent Assembly of Pakistan and the Legal Battles of Moulvi Tamizuddin* 214.

⁶⁷ *Ibid.*, 216.

⁶⁸ *Ibid.*, 217.

Ordinance-IX of 1955 that allowed him retrospectively to validate laws passed by the Constituent Assembly. This ordinance was challenged before the Federal Court in the *Yusuf Patel versus the Crown* case. The executive was challenged on the grounds that it did not have the power under law to make changes to the constitution of its own free will. Having created a legal vacuum, the Federal Court now *rejected* the governor general's exercise of emergency powers and thus plunged the country into an even more intractable crisis. The legal machinery of the state faced ruin as challenges to its legality mounted.⁶⁹ Indeed, the conundrum was that only an assembly could validate laws, but since the adult franchise was granted under an act that did not have the governor-general's consent, legally, elections would have to be held on the basis of limited franchise as in 1946.

Ghulam Muhammad responded by filing a reference with the Federal Court, convened a new Constituent Assembly due to meet on May 10, 1955, asked the court to advise the government on how exactly validation of laws could take place, and went ahead with the validation of over thirty laws subject to judicial review. The terms of the reference were enlarged on Munir's advice to include the legality of the dismissal of the first Constituent Assembly lest the new one be challenged on the grounds that it was illegally replacing the previous one. Having almost single-handedly plunged Pakistan into a legal quagmire through criminal collusion and incompetence, Munir's reply to the governor-general's reference, delivered on May 16, 1955, applied the doctrine of individual necessity to the state as a whole:

...subject to conditions of absoluteness, extremeness and immanence, an act which would otherwise be illegal becomes legal if it is done bona fide under the stress of necessity, the necessity being referable to an intention to preserve the constitution of the State or the Society...necessity knows no law and that

⁶⁹ Jan Mohammed Dawood, *The Role of the Superior Judiciary in the Politics of Pakistan* (Karachi: Royal Book Company, 1994), 18.

...necessity makes lawful which otherwise is not lawful. Since the address expressly refers to the right of a private person to act in necessity, in the case of Head of the State justification to act must...be clearer and more imperative.⁷⁰

Unrepentant and heedless of the greater consequences, Munir declared that the first Constituent Assembly had become non-functional, unrepresentative and failed to get proper assent from the governor-general:

The disorder that stared the Governor-General in the face, consequent on the illegal manner in which the Constituent Assembly exercised its legislative authority, is apparent from the results described in the Reference as having followed from the Court's decision in Mr. Tamizuddin Khan's case and the subsequent case of Yusuf Patel. The Governor-General must, therefore, be held to have acted in order to avert an impending disaster and to prevent the State and Society from dissolution.⁷¹

There was little substantive difference between Munir and his judicial collaborators and the *qazis* of the Timurid or Ottoman empires who bent over backwards to demonstrate that the executive could legitimately do what it pleased. When Iskander Mirza and Ayub Khan, both of whom Munir advised and consulted with on matters of national importance and politics, staged a coup in October 1958 and issued an ordinance allowing laws under the 1956 constitution, which was technically abrogated, to continue in force until further notice, the judgment to the court challenge was a foregone conclusion. Munir, invoking Hans Kelsen's obscure theory of law and state, held that if a coup or revolution was successful then it stood legitimated and the new regime became the ultimate sovereign body. Its subsequent actions and edicts were lawful by virtue of its success. This logic had been used many times before in pre-British India where the victor in a war of succession was proclaimed legitimate by virtue of his success which, to the

⁷⁰ Pirzada, ed., *Dissolution of Constituent Assembly of Pakistan and the Legal Battles of Moulvi Tamizuddin*, 294.

⁷¹ *Ibid.*, 307.

pre-Enlightenment mind, was possible only through divine favor. The *Dosso* case established that legitimacy flowed from success and the superior judiciary could be counted upon like their medieval equivalents to bring forth all their "semantic sophistry" to the aid of unlawful and arbitrary acts:

We are afraid to face the truth about ourselves; we are ingenious in our rationalization of the lies that we tell, so that we may not fall in our own self-esteem.... Our leaders lie on a grand scale; the rest of us lie, some more some less, within the radius of our humbler stations in life...We cover truth with falsehood and knowingly conceal the truth, not only at the individual level but also at the institutional level.... Even our highest court of justice has repeatedly failed to uphold the truth, calling semantic sophistry to the aid of moral self-deceit: in 1955, legitimizing the overthrow of the then Constituent Assembly by the then Governor-General; in 1958, raising a coup to the status of a "revolution"; in 1972, exhibiting a spasm of conscience on the last day of that martial law; in 1977, falling back on the "doctrine of necessity"....⁷²

To these we may add the validation of Musharraf's coup of October 12, 1999, as well as the swearing of a new oath under a provisional constitutional order or PCO and the legitimacy extended to the 2002 referendum that secured five more years in office for the president. Like Theseus and Peisistratus, Pakistan's rulers, judges, administrators and reformers have been enamored with the rule of justice that would flow naturally from their personal virtues.

5.3 The Rule of Justice

Speaking on the centenary of the West Pakistan High Court in February 1967 Ayub Khan asked the assemblage "Why can't our courts become the courts of justice instead of courts of law" and insisted that "something be done to make justice cheaper and speedier."⁷³ Ayub asserted that the laws of Pakistan "and the ways they" were operated were not "in consonance with our historical, ideological, cultural background"

⁷² "Report of the Committee on the Study of Corruption, 1986", 68-9.

⁷³ Baxter, ed., *Diaries of Field Marshal Mohammed Ayub Khan, 1966-1972*, 62. February 17, 1967.

and the people did not "have faith in them."⁷⁴ The entire system introduced by the British to administer and uphold laws was alien and had corrupted the people of Pakistan and been corrupted by them "to make it work at all."⁷⁵ This corruption had created a society "where truthfulness is not practised", thus "no system of detection" could work with reasonable accuracy and "no norms enforced with certainty."⁷⁶ The colonial laws in trying to protect witnesses and the accused had contributed to a situation in which confessions made to the police could be denied with impunity before the court.⁷⁷ The courts had "actually departed from the rule of best evidence" and "considered it safe to act on the second best evidence."⁷⁸ In the investigation of cases the system did not seek truth so that justice could be done but exerted itself to generate "evidence in an admissible form."⁷⁹ In order to serve the law forgery and perjury were thus committed while "the supposed ends of justice" were abandoned.⁸⁰ It was only logical that the inherently corrupt, unjust, and alien system of laws had created a situation in which "subordinate court officials who have to deal with the public" extorted "illegal gratification from the litigants before condescending" to perform their statutory function.⁸¹ The rule of law as expressed in the imperial legacy was "most expensive, ineffective, dilatory, tyrannical and totally unsuited to our genius."⁸²

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ 1960, File No. 178/CF/60, Government of Pakistan, President's Secretariat, "Note on the Administration of Justice and Procedural Reforms", 2.

⁷⁷ Ibid., 4-5.

⁷⁸ Ibid., 3.

⁷⁹ Ibid., 5.

⁸⁰ Ibid.

⁸¹ *The Report of the Law Reform Commission 1958-59* (Karachi: Government of Pakistani Press, 1959), 101.

⁸² Memon, ed., *The Altaf Gauhar Papers*, 53.

What was suitable to the genius of the Pakistani people was "having a 'Jirga' style judicial system" without complicated evidence and "procedural laws with only one right of appeal."⁸³ A similar system had operated in pre-British India before being corrupted by the alien rule. The great cause of its success in the heyday of the Timurid Empire was that "the emperors took the administration of justice very seriously."⁸⁴ Though defective in terms of organization, laws, jurisdiction and hierarchy, none of which were properly defined, justice was dispensed satisfactorily.⁸⁵ The singular reason for this success "was that the emperor himself constituted the highest appellate court" and "also heard cases and complaints against high government officials."⁸⁶ Inspired by the personal example set by the emperor the Timurid courts and officials did not seek "to decide a case on the basis of the record of evidence produced before it, but to make enquiries and investigations, find the truth" and, above all else, do justice.⁸⁷ It was therefore fitting that Pir Ali Mohammad Rashidi, an Ayub Khan loyalist posted as ambassador to the Philippines, advised, on June 12, 1961 in favor to establishing a monarchy in Pakistan.⁸⁸ If only Ayub Khan became the king of Pakistan "all the fissiparous tendencies, uncertainties and conflicts" would be at an end.⁸⁹ Ayub Khan responded that a monarchy was not practical in Pakistan ignoring, perhaps, the possibility that political parties may become vehicles of dynastic rule in the near future and that a generation later an elected

⁸³ Ibid.

⁸⁴ Mohammad Yasin and Tariq Banuri, eds., *The Dispensation of Justice in Pakistan* (Karachi: Oxford University Press, 2004), 76.

⁸⁵ Ibid., 89.

⁸⁶ Ibid.

⁸⁷ Nasim Hassan Shah, "Judicial Administration", in Jamilur Rehman Khan, ed., *Government and Administration in Pakistan*, 258.

⁸⁸ Memon, ed., *The Altaf Gauhar Papers*, 183-4.

⁸⁹ Ibid., 183.

prime minister would seriously consider becoming the "commander of the faithful" or *amir-ul-momineen* of Pakistan.⁹⁰

What was remarkable about this discourse in the context of introducing the rule of justice to Pakistan was that following the introduction of the West Pakistan Criminal Law (Amendment) Act of 1963 that expanded the scope of the indigenous system there was "a marked increase in the incidence of crime." This was contrary to the claim that *jirgas* would act as deterrents "against the commission of heinous crimes."⁹¹ In 1962, in the Peshawar division there had been five hundred and twenty-six murders, four dacoities, and six hundred and ninety-eight attempted murders⁹² In 1967, there were six hundred and nineteen murders, sixteen dacoities, and nine hundred and eighty-five attempted murders in the same division.⁹³

The love of justice was the natural consequence of the "Islamic system of administration of justice" which laid greater emphasis upon the "personal character of all those who are involved, the witnesses, the prosecuting agencies and the police officers."⁹⁴ The entire Timurid apparatus, it was maintained, was motivated by love and fear of the divine which in its Islamic variant elevated the moral virtue of justice as second only to piety.⁹⁵ Occasional instances of Muslim rulers, especially from the Pious Caliphate (632-661) but also from other times with Jahangir's belled-chain of justice exercising a most powerful hold over the neo-medieval Pakistani group mind, paying respect to judges or making a show of submission were taken as proof that the "rule of law" as exercised in

⁹⁰ Ibid., 232.

⁹¹ *The Report of the Law Reform Commission 1967-1970* (Karachi: Government of Pakistan Press, 1970), 149.

⁹² Ibid.

⁹³ Ibid.

⁹⁴ Nasim Hassan Shah, "Judicial Administration", 294.

⁹⁵ *The Report of the Law Reform Commission, 1967-1970*, 113.

the corrupted and pessimistic Solonian institutions of the West was in fact indistinguishable from the rule of absolute justice emanating from personal morality that was the "foundation of the entire Islamic religious, social, cultural, economic and political structure."⁹⁶ It was hardly pointed out that if these rulers had *chosen* not to submit, as their successors did with absolute impunity, there was no institutional force that could have compelled them to do so. The conflict between the Ummayyads and the Hashimites that brought down the Pious Caliphate saw the latter party rejecting the results of an arbitration that went against its political interests. The extraordinary morality of great and virtuous men does not automatically translate into a system workable by ordinary and highly fallible people.

Since only a supreme and omnipotent executive can dispense true justice the transparent contempt that successive Pakistani rulers have demonstrated by their actions for the superior judiciary is perfectly understandable. The mental and moral landscape of Pakistan's Anglophone elite is far less modern or liberal than appearances alone would indicate. This landscape is also scarred by underlying layers of insecurities, complexes, utopian delusions, unremitting cynicism, and tremendous desire to convince itself that the Mandate of Heaven is still within its grasp. Iskander Mirza, during his governorship of East Bengal, "would often surprise the people" through "unexpected informal" appearances at cinemas, schools, hospitals and the like.⁹⁷ To show the people his sincerity and love of justice and equality, Mirza "stood in the queue" to purchase tickets for the movies at the Gulistan Cinema in Dhaka.⁹⁸ On other occasions Mirza traveled incognito

⁹⁶ Hassan Shah, "Judicial Administration", 255-6.

⁹⁷ Jilani, *Fifteen Governors I Served With*, 19.

⁹⁸ Ibid.

to ascertain for himself the true state of affairs.⁹⁹ Like all lovers of justice Mirza “employed both conventional and unconventional methods for keeping himself informed”, including the intelligence agencies, personal contacts and foreign operatives.¹⁰⁰

Ayub Khan’s 1962 Constitution “did not contain any Fundamental Rights” though that did not stop “the Judges of the Supreme Court” from swearing “the oath to uphold the Constitution.”¹⁰¹ The court had earlier ruled that Ayub’s Security of Pakistan Act “could not be challenged in the courts.”¹⁰² Later, it extended recognition to the Defense of Pakistan Rules (DPR) introduced by a presidential ordinance in September 1965 in response to war with India. The DPR allowed detention on grounds that the individual or party concerned *might* disturb internal order. The Supreme Court of Pakistan’s “judgment was therefore a bonanza for the Government to legalize an instrument of oppression used by it to silence and terrorize its citizens.”¹⁰³ When Ayub was overthrown in March 1969 and his constitution abrogated, the judiciary quietly shifted its allegiances to the new regime forgetting its earlier oath.

Yahya Khan’s tribunals, set up to purge the corrupt from public service “on the basis of the report of scrutiny committees”, were his contribution to the pursuit of justice.¹⁰⁴ The dismissal of three hundred and three senior officials was Yahya’s attempt at dispensing speedy justice and “people were delighted that they had at last found a dictator who believed in fighting corruption.”¹⁰⁵ Later, Yahya “in his evidence was

⁹⁹ Ibid.

¹⁰⁰ Ibid.

¹⁰¹ Dorab Patel, *Testament of a Liberal* (Karachi: Oxford University Press, 2000), 79.

¹⁰² Ibid., 78.

¹⁰³ Ibid., 95.

¹⁰⁴ Ibid., 98.

¹⁰⁵ Ibid.

strongly" of the view that "whenever a military commander, however low ranking, finds that the ordinary government cannot be carried on in the area in his command" possesses "both the right and the obligation to impose Martial Law."¹⁰⁶ It was as if in its self-perception the military sincerely believed that it possessed "an authority superior to the Constitution."¹⁰⁷

Zulfiqar Ali Bhutto's attitude towards the dispensation of justice was characterized by arbitrariness although some effort was made to maintain constitutional norms. In addition to legislation by executive ordinances, a total of two hundred and nineteen of which were passed (twenty-four between January and July 1977), the continuation of the emergency meant that fundamental rights remained suspended. Bhutto's self-styled revolutionary regime wanted to do justice by raining vengeance upon the exploiters of the poor masses with business interests and the higher bureaucracy, especially its CSP component, the principal targets. It had no time to bother with British state morality and the rule of law. The FSF existed to mete out justice to the enemies of the regime while the judiciary had to bend before the will of the sovereign people. Special courts and tribunals were created to circumvent the regular judiciary. The rules "governing the appointment and superannuation of Chief Justices were changed by constitutional amendment to ensure the subservience of the superior courts to the political executive."¹⁰⁸ The Sixth Amendment Act allowed the prime minister to grant extensions to the Chief Justice of the Supreme Court beyond the retirement age of sixty-five and

¹⁰⁶ *The Report of the Hamood-ur-Rehman Commission of Inquiry into the 1971 War*, 63.

¹⁰⁷ *Ibid.*

¹⁰⁸ *White Paper on the Performance of the Bhutto Regime*, Vol. II, *Treatment of Fundamental State Institutions*, 44.

Justice Yaquub Ali, who had declared that Bhutto had "great respect for the judiciary" and "was granted an extension" when he was due for retirement.¹⁰⁹

The tone had been set during the martial law period in which Bhutto was the president, when, in April 1972, the district judge of Sanghar in Sindh "was arrested because he had given bail to a minor politician on the basis of a judgment" of the High Court.¹¹⁰ The Supreme Court's intervention secured the release of the arrestee but "this attempt to prosecute a District Judge for performing his duties...had a traumatic effect on the subordinate judiciary of Sindh."¹¹¹ Further evidence of Bhutto's "respect" for the judicial system included the withdrawal, on April 24, 1974, of "the legal protection available to the citizen against *malafide* arrest on a criminal charge."¹¹² On September 13, 1976, under the Fifth Amendment Act, the high courts lost their powers to grant bail.¹¹³ The continued employment of DPR and special tribunals, the Suppression of Terrorist Activities law of 1975 and the special courts at Karachi, Peshawar, and Lahore under one high court judge apiece, meant summary trials, the presumption of guilt, the effective repeal of Habeas Corpus, bail, and in a number of cases, appeal. The accused did not even have to be produced in court before a magistrate. Bhutto also promised to consider sympathetically the demand that plots of land should be "allocated to lawyers for the construction of houses."¹¹⁴ Pliant lawyers "were appointed legal advisers to various" nationalized "banks on the strength of their political affiliation."¹¹⁵ By May 1976, the

¹⁰⁹ Ibid., 70.

¹¹⁰ Patel, *Testament of a Liberal*, 121.

¹¹¹ Ibid.

¹¹² *White Paper on the Performance of the Bhutto Regime*, Vol. II, *Treatment of Fundamental State Institutions*, 47.

¹¹³ Ibid., 51.

¹¹⁴ *White Paper on the Performance of the Bhutto Regime*, Vol. II, *Treatment of Fundamental State Institutions*, 107.

¹¹⁵ Ibid., 113.

PPP estimated that one hundred members of the High Court Bar Association (HCBA) of Lahore were loyal to Bhutto though the situation at the district level, with only one hundred and fifty-eight loyal followers out of one thousand nine hundred members of the District Bar Association, left much to be desired.¹¹⁶ As Bhutto became more desperate to hang on to power the distinction between sin and crime was sacrificed with the introduction of prohibition and bans on gambling and horse racing. Earlier, in 1973, Bhutto had established a Ministry of Religious Affairs and in 1974 had the Ahmedis declared non-Muslims by an amendment to the constitution. The ban on alcohol and gambling were imposed as part of a desperate gambit during the final days of the PPP government. Their objective was to deflect criticism of the un-Islamic nature of Bhutto's popular but increasingly embattled government. These sops to traditionalist sentiment did not alter the fortunes of the government and after being overthrown, Bhutto was put on trial before the Supreme Court for conspiracy to murder and executed on April 4, 1979 with four votes to three in favor of guilt.

Zia kept Pakistan under martial law between 1977 and 1985 and came down hard on his opponents. The martial law authorities flogged, searched, imprisoned, and confiscated "without having to give reasons."¹¹⁷ Brutal punishments such as public floggings graced Pakistan's tortured landscape and the state poured its energies and resources into molding society supposedly in a just and assertively Islamic frame of mind. The lawyers' associations were prohibited on pain of twenty-five lashes from inviting anyone to address them. On March 25, 1981, the judges of the supreme and high courts were invited to swear an oath of loyalty to the CMLA under the PCO or stand

¹¹⁶ Ibid., 108.

¹¹⁷ Asghar Khan, *We've Learnt Nothing from History: Pakistan Politics and Military Power* (Karachi: Oxford University Press, 2005), 175.

dismissed. An acting judge of the Supreme Court and eleven judges of the high courts were not invited to take the oath and "their summary dismissal had a traumatic effect on the entire judiciary."¹¹⁸ Zia abstained from making permanent appointments to the supreme and high courts and "thought it prudent to keep" the judges "in a state of suspense and insecurity."¹¹⁹ By setting up separate *shariat* benches, appointing *qazis*, constituting a Federal Shariat Court (FSC), rendering the Objectives Resolution an operative part of the constitution, and introducing blasphemy and adultery laws, Zia revived the "monarch-mullah combination" that had existed for centuries prior to the advent of British rule.¹²⁰ The clerical establishment, now patronized by *zakat* funds, bestowed upon Zia in the tradition of the Timurid rulers "divine rights to rule ruthlessly" in exchange for continued patronage.¹²¹ Zia set a personal standard for piety by giving funds and support to mosques, such as the Lal Masjid in Islamabad, inserting a column for religious observance in the evaluation reports of state employees, providing for prayer breaks in offices, and sticking to a religious routine. Islamization was expected to produce good people and that would allow justice to reign supreme without the artificial, alien, Godless, and heretical, innovations of the post-Enlightenment State of Laws. The impact upon the country of such thinking was that between 1981 and 1990 the total number of crimes registered rose from one hundred and seventy-three thousand per year to three hundred and ten thousand per year.¹²² The office of Ombudsman introduced in 1983 to hear complaints against the administration was in the same breath deprived of

¹¹⁸ Patel, *Testament of a Liberal*, 180. Justice Dorab Patel refused to take the oath and was consequently dismissed.

¹¹⁹ *Ibid.*, 181.

¹²⁰ *Ibid.*

¹²¹ *Ibid.*

¹²² Yasin, ed., *District and Police Systems in Pakistan*, 200.

powers to act upon the results of its inquiries. Complaints, however, poured in by the tens of thousands every year. Although Zia's regime enjoyed stability society at large was rendered increasingly ungovernable as resources from home and abroad were poured into arming, training, and launching legions of Islamic militants into Afghanistan to fight the Soviets.

Zia's death brought in Benazir Bhutto and Nawaz Sharif and between 1988 and 1999 the PPP and PML governments rotated into and out of office. Both parties tried to concentrate as much power as possible in their own hands and inflicted one-sided accountability upon each other. Sharif, on balance, was more consciously and unapologetically medieval than Benazir Bhutto, and was fond of roaming around the country and holding open courts, sometimes televised live, in which people could personally approach him and secure justice. One of the finest manifestations of Sharif's justice was his handling of the public meeting at the Faisalabad Development Authority on March 10, 1997. Three officers "appeared to be party to the purchase of defective water meters and to have misappropriated large sums of government funds."¹²³ In a fit of righteous wrath, such as the one in which Akbar ordered the feet of a man who had stolen slippers amputated, Sharif "ordered their arrest and they were in fact handcuffed by the police and taken into custody in his presence."¹²⁴ The Supreme Court assumed jurisdiction in this particular case.¹²⁵ The Shariat Bill was another manifestation of the executive's desire to become the medium through which divine justice could rain down upon society.

¹²³ Nasim Hassan Shah, *Memoirs and Reflections* (Islamabad: Alhamra Publishing, 2002), 124.

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*

Benazir Bhutto, for her part, elevated Sajjad Ali Shah to the post of Chief Justice of Pakistan in violation of the seniority principle hoping to secure a pliable crony in office. This was the first time since the appointment of Munir in 1954 that the seniority principle was ignored. The new appointee soon established personal links with the president and helped facilitate Benazir's dismissal in November 1996. Sajjad Ali Shah, like Munir, expected to be consulted on matters of national importance by the army chief, the president, and the prime minister. Nawaz Sharif, however, returning to power with a two-thirds majority, criticized the court and contempt charges were brought against him and his associates. Sharif rapidly proceeded to introduce changes to laws and planned to pass a Contempt of Parliament Act directed at the judiciary. After making a huge deal of personally attending the contempt hearings and comparing himself to the Pious Caliphs, Sharif revived the issue of Sajjad Ali Shah's seniority and fomented a judicial insurrection. On November 28, 1997 the Supreme Court building was attacked by ruling party members by which time the Quetta Bench had already rebelled against Sajjad Ali Shah's leadership. By December 1, 1997, ten of the justices of the Supreme Court fell in line and on December 23, 1997, Sajjad Ali Shah was dismissed in effect for thinking that the prime minister could be compelled to discuss important issues with him while leaving him a free hand to make appointments and transfers within the judiciary.¹²⁶

The rhetoric of justice did not translate into improvements in the efficiency and competence of the judiciary. By the mid-1990s even the simplest case took an average of four and half years to resolve while more complicated cases could and did drag on for

¹²⁶ In the period prior to his removal Sajjad Ali Shah reveals that he considered it perfectly normal for himself to be consulted on matters of national importance. When the crisis between the executive and judiciary came to a head Shah asked the president to provide security and deploy paramilitaries and military units to protect the Supreme Court from the prime minister. Sajjad Ali Shah, *Law Courts in a Glass House*, 508-509.

decades.¹²⁷ At the sessions court level the average pending period for cases was alarming especially for crimes against the social fabric and public order. On average, cases pertaining to the disturbance of order remained pending for two hundred and four days; illegal possession of arms and ammunition two hundred and fifty-three days; murder two hundred and fifty-one days and narcotics one hundred and sixty-eight days.¹²⁸ In 1992, at the Peshawar High Court it took an average of twenty-one months to dispose of a civil suit and eighteen months to complete a criminal case.¹²⁹ On January 1, 1994, the total number of cases pending before the Supreme Court stood at six thousand one hundred and six.¹³⁰ In the meanwhile, the speedy trial courts were a bad joke upon the justice system.¹³¹ For the people who get trapped in the process of civil litigation or criminal investigation the consequences were and are dire. About six out of ten prison inmates in 1986 were under-trial prisoners.¹³² There, the "generally barbaric and brutal behaviour of the jail staff" produced hardened criminals instead of repentant sinners.¹³³ Although there are instances of individual brilliance and courage, such as Aitzaz Ahsan and Hamid Khan, the quality of the members of the legal fraternity leaves much to be desired. Standards are lax, exams often a formality, and the lawyers are almost as dishonest as the criminals and policemen they interact with. There is also an acute shortage of properly trained public prosecutors and successive attempts at reform have yielded little beneficial change. The results are "an expanding circle of alienation of the credibility of the national

¹²⁷ Yasin and Banuri eds., *The Dispensation of Justice in Pakistan*, 172.

¹²⁸ *Ibid.*, 102.

¹²⁹ *Ibid.*, Appendix 13.

¹³⁰ *Ibid.*, Appendix 19.

¹³¹ *Ibid.*, 90.

¹³² "Report of the Committee for the Study of Corruption, 1986", 239.

¹³³ *Ibid.*

judicial system."¹³⁴ The situation, however, on the executive side of the administration of law, order, and justice, reached a far more advanced degree of deterioration quicker and more surely.

5.4 The Forces of Order

As a greater proportion of the All-India Services came to be recruited from the Indian subjects of the British Raj, the Joint Committee on Indian Constitutional Reform for the 1933-1934 Session advised that in continental bureaucratic states such as India "the executive function" was of "overriding importance."¹³⁵ A core component of this function was the police. The characteristics of an effective police force were "discipline, impartiality, and confidence in its officers" all of which would be "most quickly undermined" if "political interference" and "pressure" was introduced into its operation.¹³⁶ It would be "disastrous" for all concerned if the police "were to be sacrificed to the exigencies of a party or to appease the political supporters of a Minister."¹³⁷ The administrative autonomy of the police and its related agencies and departments was essential to the preservation of the state of order in society. On the other hand the politicization of the core executive function would diminish its legitimacy and effectiveness and given enough time unleash chaos.

By January 1933, there were one hundred and fifty-two Indian IPS officers out of a total cadre of six hundred and sixty-five which made it one of the least Indianized of the AIS.¹³⁸ In contrast, the ICS had four hundred and seventy-eight Indian officers out of a

¹³⁴ Ibid.

¹³⁵ *Joint Committee on Indian Constitutional Reform Session 1933-34*, vol. I, part I (London: His Majesty's Stationery Office, 1934), 13.

¹³⁶ Ibid., 50.

¹³⁷ Ibid.

¹³⁸ Ibid., 174.

total cadre of one thousand two hundred and ninety-seven while in the Service of Engineers there were two hundred and ninety-two Indians out of a total of five hundred and ninety-six.¹³⁹ Since partition had not been figured into the equation the numerical strength and seniority of Muslim officers who opted for Pakistan in 1947 was very low. Pakistan had to make do with a mere twelve Muslim IPS officers and fourteen British IPS officers who opted to stay.¹⁴⁰ In contrast there were eighty-three Muslim ICS officers available to Pakistan in 1947.¹⁴¹ While the middle and lower ranks of the police were reasonably well staffed the officer corps of the PSP had to be rebuilt around a tiny nucleus of British and British-trained officers. In the aftermath of partition the effort was to try and recreate the police as it had existed in British India. Even as quantitative adjustments were made and order successfully restored the capacity of the police force to resist political pressure was undermined.

By 1953, the "impression" that members of the legislature engaged in "undue interference with police" had "gained ground in the public mind."¹⁴² Some legislators had gone so far as to instigate public disturbances and then secure bail or leniency for their followers.¹⁴³ While the CSP and PSP officers were thus far "able to withstand the influence" exerted by politicians there was great "danger" that "subordinate officers" were failing to "stand up" and resist successfully.¹⁴⁴ If such interference by "Ministers" and members of the legislature continued "unchecked" the "virus" could infect the senior

¹³⁹ Ibid.

¹⁴⁰ Braibanti, "Public Bureaucracy and Judiciary in Pakistan" in Joseph LaPolambara, ed., *Bureaucracy and Political Development*, 347.

¹⁴¹ Ibid.

¹⁴² *Report of the East Bengal Police Committee* (Dacca: East Bengal Government Press, 1954), 7.

¹⁴³ Ibid.

¹⁴⁴ Ibid.

officers and lead to the erosion of the credibility and effectiveness of the state.¹⁴⁵ Elected representatives were circumventing officers and breaking-up the discipline of the police force which had barely recovered from the chaos of partition.¹⁴⁶ If the "interference with the ordinary course of rules and law" by the politicians was not effectively stopped Pakistan would soon have "the police it deserves and not the police it needs."¹⁴⁷ Pressure was effectively exercised by the politicians to secure the recruitment of large numbers of constables who duly proceeded to become a public nuisance and administrative headache. In their desire to distribute jobs amongst their supporters the elected representatives seemed oblivious to the reality that it was "far better to have 50 men well trained, well equipped and in perfect health than 500 men trained indifferently and housed indifferently."¹⁴⁸

Successive regimes failed to reform the principles of police organization and contended themselves with tinkering with an early-twentieth century institutional framework. The Police Commission constituted by Ayub Khan in 1960 found that it was the functioning of the ordinary constable that determined the public perception of police.¹⁴⁹ Those promoted from constable to more senior positions carried with them "the habits and modes of thought acquired in the constable grade."¹⁵⁰ The key to winning the battle was to get productive and efficient sub-inspectors¹⁵¹ and the training given to all

¹⁴⁵ Ibid.

¹⁴⁶ Ibid., 8.

¹⁴⁷ Ibid.

¹⁴⁸ Ibid., 47.

¹⁴⁹ *Report of the Pakistan Police Commission, 1960-61* (Rawalpindi: Government of Pakistan Press, 1961), 48.

¹⁵⁰ Ibid., 23.

¹⁵¹ Ibid.

ranks laid far too much emphasis on ceremonial drill.¹⁵² These prescriptions would be repeated ad nauseam by subsequent commissions and committees.

A decade later the police numbered seventy thousand in West Pakistan (population fifty-two million) and thirty thousand in East Pakistan (population sixty-two million) and had a network of training schools and centers for traffic, wireless communications, criminal investigation, as well as an academy for officer training. It was however noted that respectable people tended to keep "their complaints to themselves for fear of being humiliated" by the police.¹⁵³ The faculty at the training centers and the academy were for the most part the "problem children" or rejects from the main cadre.¹⁵⁴ Instead of looking forward to the opportunity to influence entire generations of future police officers in a positive manner the faculty regarded their postings as cruel and unusual punishment.

Lawlessness and corruption within the police force had become matters of grave concern at both the lower and higher levels. Police officers were engaged in the illegal acquisition of property, making deals with local businesses, manipulating cases, and living beyond their means.¹⁵⁵ The senior officers were protecting and facilitating corrupt and servile subordinates, acquiring property, and accepting hospitality from local notables in exchange for favors.¹⁵⁶ This in turn meant that the restraining influence of a clean officer corps upon the intermediate and lower ranks of the police had significantly diminished. Constables and sub-inspectors now operated in an increasingly pervasive

¹⁵² Ibid., 62.

¹⁵³ *Report of the Pakistan Police Commission 1969-70* (Rawalpindi: Police Commission Secretariat, 1970), 32.

¹⁵⁴ Ibid., 53.

¹⁵⁵ Ibid., 93-94.

¹⁵⁶ Ibid., 94-95.

atmosphere of corruption with little fear of their superior officers whose powers of dismissal and discipline over the lower ranks had been reduced since independence.¹⁵⁷ Since during Ayub's rule the inspector-generals (IG) had been in more or less complete control of postings and transfers of subordinate officers, they bore great responsibility for the state of affairs.¹⁵⁸

General A. O. Mitha, the chairman of the 1969-70 Police Commission and the vice-chairmen, brigadiers Muhammad Jamshed, Malik Abdul Majid, and Ghulam Jilani Khan, opined forcefully that "Ours is no longer an alien government interested and involved in the continuation of the 'RAJ' through police methods that bind and subjugate the people and its politicians."¹⁵⁹ The problems with the police were the lack of inspiration, honesty, and "man-management".¹⁶⁰ The police must "not be shy of seeking the assistance of recognized organization and methods consultants" to overcome these deficiencies.¹⁶¹ Advancement within the police should be based upon character as well as seniority and efficiency and for this purpose sixty percent of the assessment value for promotions should be reserved for honesty.¹⁶²

Subsequent to the collapse of Yahya's regime under the weight of its own ineptitude and the restoration of democratic rule under Bhutto, it was hoped that the democratically elected governments would prove more responsive to public opinion and reduce the level of police high handedness as well as bureaucratic oppression.¹⁶³ This naïve expectation was brutally punctured by the unprecedented arbitrariness of the Bhutto

¹⁵⁷ Ibid., 96.

¹⁵⁸ Ibid., 13.

¹⁵⁹ Ibid., 14.

¹⁶⁰ Ibid., 13.

¹⁶¹ Ibid.

¹⁶² Ibid., 100.

¹⁶³ *G. Ahmad's Committee on Police Organization and Reforms in Pakistan* (Islamabad: Government of Pakistan, 1972), 6.

government and the overall tangent of administrative reforms it pursued. In 1972, the police was still capable of being culturally modernized and though in a decaying orbit had enough energy left to pull itself together and change course. By 1977, the shocks administered through purges, lateral induction, equalization and standardization of pay-scales, and destruction of service guarantees, had almost reduced it to its 1850s conditions – a dangerous and lawless force, politicized, corrupt, and a threat to peaceful and law abiding citizens. While resources that should have gone into the modernization of the police force were poured into building the eighteen thousand strong FSF and increasing the pays and benefits of the military, the constant shuffling around of officers from one post to another vitiated the ability of the police to maintain a semblance of administrative stability.

In 1976, the Subcommittee on Law and Order observed that "too many transfers or postings of working level officers were ordered on political considerations at the cost of partial/complete sacrifice of service requirements."¹⁶⁴ PPP workers and leaders kept "cutting across the proper flow of command and control in the executive line" while complaining that the civil service and police did not duly "acknowledge the role of the political arm in day-to-day administration."¹⁶⁵ Evidently, the "political arm" did not understand that it had no role to play other than determining policy and overseeing its execution. The Subcommittee conceded that at the district and station jurisdiction levels "corruption was really rampant" and "was by far the major cause of decrease" in the prestige and effectiveness of the state.¹⁶⁶ The inspections of police stations had become matters of "routine" with little attempt to actually make sure that the law was being

¹⁶⁴ *Report of the Subcommittee on Law and Order 1976* (Islamabad: Government of Pakistan Press, 18).

¹⁶⁵ *Ibid.*, 19.

¹⁶⁶ *Ibid.*, 15.

obeyed.¹⁶⁷ As the state sank into demoralized ineffectiveness the district administration was far too busy catering to VIPs and giving due protocol to elected representatives and their sycophantic minions.¹⁶⁸ In essence, the law enforcement, supervision, and reporting apparatus was doing political work and trying to please PPP members instead of upholding the law and dealing with crime.¹⁶⁹ These views were politely corroborated by a team of Romanian police experts who toured the country from March 10 to June 10, 1976. They found a "lack of functional specialization" and a rank structure that bore "no relation to job specifications generally."¹⁷⁰ The non-seriousness of the approach towards ensuring the effectiveness of the state's core function was chilling.

Equally astonishing was that senior police officers themselves thought, in a sad though unintentional admission of their limited knowledge of the history of policing, that "the police system of Pakistan is a colonial legacy and that the British used it to maintain law and order in a country in which they were considered unjust alien rulers."¹⁷¹ Forty years after independence "the executive-police relations" effectively "reduce the police to the position of a pawn in the hands of the executive."¹⁷² The perception of successive rulers was that the police was "a non-development department" and so investment in its modernization was unnecessary.¹⁷³ Blaming the British for this failure may have eased a few consciences, assuming the senior police leadership had any left, but it did not alter the reality that by 1986 the police was thought to be the most corrupt institution in the

¹⁶⁷ Ibid., 13.

¹⁶⁸ Ibid., 8.

¹⁶⁹ Ibid., 9.

¹⁷⁰ *Appraisal of Police Administration in the Islamic Republic of Pakistan by Romanian Police Experts* (Rawalpindi: Government Press, 1976), 2.

¹⁷¹ S. D. Jany, "Police Administration" in Jamilur Rehman Khan, ed., *Government and Administration in Pakistan*, 441.

¹⁷² Ibid., 442.

¹⁷³ Ibid.

country with only forty-three percent of some twenty-one thousand respondents willing to turn to the police for help "in the event of a personal grievance."¹⁷⁴ Half the respondents said that they would probably not contact the police even if they witnessed anti-state activities.¹⁷⁵ Seventy-five percent stated that those in power were entirely above the law.¹⁷⁶

The police behaved as an "aggressive" and para-military" organization that had missed out on the post-1945 reforms and retrogressively committed itself to the theory of policing through force and weight of numbers.¹⁷⁷ Interrogation and investigation techniques were forced and haphazard and the police image was in tatters owing to the low quality of the constables who made up "95% of the force."¹⁷⁸ The public's transparent fear of the police and reluctance to cooperate made its tasks even harder to execute.¹⁷⁹ That recruitment to this force at the lower levels was arbitrary, with, in some cases, five thousand men given posts every year, and thus served to overwhelm training facilities, led to the induction of large numbers of unfit candidates, and made the police harder to manage.¹⁸⁰ At the training centers hardly any of the faculty possessed "specific instructional qualifications" and, with a few exceptions, they were "posted against their wishes."¹⁸¹ The result was that new recruits, especially in the officer corps who were

¹⁷⁴ "Report of the Committee for the Study of Corruption, 1986", 34.

¹⁷⁵ Ibid., 34.

¹⁷⁶ Ibid.

¹⁷⁷ A. J. Giles, *Final Report of Chief Superintendent A. J. Giles, British Police* (Islamabad: Interior Division, 1984), 24.

¹⁷⁸ Ibid. In Britain all police officers joined as constables and rose through intra-department exams to higher positions. In Pakistan, the class structure had been retained even with the introduction of Unified Grades under Bhutto. The structural flexibility of the police had been greater under the old system.

¹⁷⁹ Ibid.

¹⁸⁰ Ibid., 9-10.

¹⁸¹ Ibid., 11.

most intelligent¹⁸² and had sound reasoning and communication skills stood to be demoralized by the assortment of incompetent and/or out of favor faculty and an unimaginative curriculum which placed excessive emphasis on physical drill and not enough on law, theory, and police technology.¹⁸³ The one year of common training at Lahore prescribed by Bhutto and continued by his successors was of "little value" though the opportunity to interact with students of other departments was "most useful" for making friends in the right places.¹⁸⁴

By 1992, the total strength of the police force stood at one hundred and ninety thousand distributed across one thousand three hundred and sixty-four police stations.¹⁸⁵ The total expenditure on the police was nearly five and a half billion rupees which worked out to per capita expenditure of sixty rupees for a population of about one hundred and twenty million.¹⁸⁶ The police to population ratio stood at one to six hundred with per capita expenditure on maintenance of police personnel varying from over thirty-two thousand rupees in the Punjab to twenty-three thousand rupees in Sindh.¹⁸⁷ The total size of the police force in the territories that now comprise Pakistan had risen from seventy thousand in 1970 to one hundred and ninety-thousand twenty-two years later. In spite of this numerical increase the national crime rate grew alarmingly at an annual average of eight percent per annum, twelve percent in the Punjab, between 1981 and 1990.¹⁸⁸ Against this numerical increase in the police force the 1990s witnessed arbitrary transfers of police personnel occur at a viciously debilitating rate. In Karachi, which

¹⁸² Ibid., 9.

¹⁸³ Ibid. 11.

¹⁸⁴ Ibid., 14.

¹⁸⁵ Yasin, ed., *District and Police Systems in Pakistan*, 165-166.

¹⁸⁶ Ibid., 162.

¹⁸⁷ Ibid., 164.

¹⁸⁸ Ibid., 200.

accounted for some six-tenths of the state's revenues in the 1990s,¹⁸⁹ the average tenure of the officer in charge of a police station was two months and three days.¹⁹⁰ At a wider level the average DSP could look forward to being in one posting for five months and twelve days.¹⁹¹ The numerical strength of the police in Sindh, which stood at twenty-four thousand in 1975, and sixty thousand in 1992, rose to over ninety-three thousand five hundred by 1999-2000.¹⁹² Given that law and order in Sindh, especially Karachi, was handed over to the army in the mid-1990s, the continuous increase in the numerical strength of the police force demonstrated its inability to perform its functions. By October 1999, Pakistan stood on the verge of the collapse of the state of order.

5.5 The State of Order

Pakistan's rulers have not been as ill-advised as one may infer from their actions. Had Khwaja Nazimuddin taken G. Ahmad's note on the internal situation seriously he may have been able to save his government and in doing so placed limits on the power of the governing corporation. Zia, Junejo, and Ghulam Ishaq Khan, were provided at no cost to themselves an accurate and rational diagnosis of the state's problems and a thoroughly sane proposal for administrative reform by Ijlal Haider Zaidi, then establishment secretary. Had they considered it seriously they may well have secured for themselves the status of saviors and prolonged their stay in power. It is perhaps the mark of debility that even when sound advice is rendered the ruler fails to recognize its merits and either blindly defends the status quo or heedlessly takes the advice for sale on the international market and its local franchises.

¹⁸⁹ Nadeem, *Pakistan: The Political Economy of Lawlessness*, 163.

¹⁹⁰ Siddiqui, *Towards Good Governance*, 43.

¹⁹¹ *Ibid.*

¹⁹² *Ibid.*, 40.

In February 2000, Zafar Iqbal Rathore, a police officer who retired as interior secretary and was asked to chair the Focal Group on Police Reform constituted by the Musharraf regime submitted a note titled "State and Order" to the interior minister Moinuddin Haider. This three page note accepted that the police leadership had been "unimaginative at the best of times and arbitrary in the bargain."¹⁹³ Rather than seriously applying itself to reform and understanding the need for it in a rapidly changing and turbulent society the political and bureaucratic leadership had "massively subverted" the inherited system through "large scale arbitrary interference".¹⁹⁴ The basic principles of police organization remained that of an early-twentieth century force, the ethos of this force had become utterly medieval, and it had become more dangerous as it had acquired some of the material trappings of modernization. Rathore added that the rulers either tried to throw money at the problem or were scared into doing nothing and did not work to deal with the collapse of "the state of order" in a firm and rational manner:

Briefly speaking we have a Criminal Justice System...staffed mostly by people who are generally recruited, trained, promoted and posted without any reference to merit, and almost entirely by their subservience to people in power. *It is imperative that we take steps to improve the quality of the police personnel. Therefore, the first and basic reform which is necessary is to insulate the management of the police from the arbitrary interference of the powerful members of the executive. This can be done by creating a neutral body of eminent persons to manage the police. This body will also undertake accountability of the police.* Since the Second World War this has been successfully done in almost all the countries of North America, Western Europe and Japan. The modalities of establishing these neutral bodies, depends on the legal and institutional conditions of different countries...but the objective is the same, - insulate the police management from arbitrary interference from the powerful members of the executive...

...As the state of order has nearly collapsed throughout the society, some areas being more affected than others, instead of trying for sustained improvement, we seem to panic, to react by promising huge funds and powers to

¹⁹³ Zafar Iqbal Rathore, Chairman of the Focal Group on Police Reform. Rathore Papers, "State and Order". Paper presented to the Interior Minister, Lt. General Moinuddin Haider, February 2000, 2.

¹⁹⁴ Ibid.

individuals and departments who promise to rid us of this nightmare. This solution has neither worked before nor is it likely to work now.¹⁹⁵

Instead of ensuring the autonomy of the police the devolution of power to elected local governments dominated by landlords with five to twelve years of education turned it into the servant of the elected district heads, the *nazims*. The police reforms required that the district police officer submit an annual policing plan to the district *nazim*.¹⁹⁶ This plan must be approved by the *nazim* and copies sent to the sub-districts, towns, and provincial government.¹⁹⁷ The *nazims* have the power to inspect police stations and hold the district police accountable.¹⁹⁸ They also write the manuscript portion of the performance evaluation report of the district police officer and coordinate between the district coordination officer and the police.¹⁹⁹ To oversee the police and the *nazims* safety committees and complaints commissions drawing a third of their members from the ranks of national and provincial assembly members, a third from the district councils, and a third through selection by a panel, have been constituted,²⁰⁰ for the most part on paper. Members of these committees and commissions are to elect their chairmen and submit annual reports to the government.²⁰¹ The same structure is replicated with modifications at the provincial and national levels with an assortment of commissions and authorities endlessly stumbling over each other.

¹⁹⁵ Ibid. Emphases in the original.

¹⁹⁶ *The Police Order 2002, Updated Version* (Islamabad: National Reconstruction Bureau, 2007), 17.

¹⁹⁷ Ibid.

¹⁹⁸ Ibid.

¹⁹⁹ Ibid., 17-18.

²⁰⁰ Ibid., 20.

²⁰¹ Ibid., 23.

In the meantime, the abolition of the commissioner system with police supervisory powers in the hands of the DMG combined with the non-functionality of the other "institutional mechanisms" have produced dire consequences:

Since the promulgation of the Police Order, a corrupt and violence-prone force has been allowed a free hand without external accountability. In fact, selective implementation of the order in an overall environment of the absence of rule of law has resulted in a sharp rise in reported police excesses, crimes, and deteriorating law and order.²⁰²

In districts where the personal relationship between the *nazim* and the police head is good a degree of efficiency is attained, otherwise coordination has broken down and the police "are widely accused of running a parallel government."²⁰³ By the end of 2002, it was found in a survey of ninety-seven districts and fifty-seven thousand households that only about one in four people would seek police assistance in the event of threat to life or property.²⁰⁴

A sample of case records from all four provinces found that "in not a single case had the public safety or *insaf* [justice] committees played their prescribed role in monitoring the police and the courts, along with grassroots participation, to ensure an improved dispensation of justice."²⁰⁵ Studies of districts such as Toba Tek Singh in the Punjab and Larkana in Sindh revealed a picture of delay and confusion. In the former cases "were pending three or fourfold more than the prescribed standard"²⁰⁶ while in the latter police harassment, judicial neglect and flight of the accused "led to prolonged

²⁰² *Devolution in Pakistan*, 20.

²⁰³ *Ibid.*

²⁰⁴ A. Cockcroft, N. Anderson, K. Omer, et. al., "Social Audit of Governance and Delivery of Public Services: Base Line 2002 National Report". Paper Presented at Conference on State of Social Sciences and Humanities: Current Scenario and Emerging Trends, December, 2003.

²⁰⁵ Shahruxh Rafi Khan, *Initiating Devolution for Service Delivery*, 202.

²⁰⁶ *Ibid.*

delays of up to eight years."²⁰⁷ A mere eighteen percent of some four hundred respondents in an SDPI survey indicated confidence in the ability of the police to help resolve problems, against twenty-two percent who preferred the judiciary.²⁰⁸ On the other hand, a mere ten percent thought the new local government institutions capable of redressing their grievances and worthy of their preference for dispute resolution.²⁰⁹

With local governments raising a mere eight percent of their own finances and caste and kinship pressures running amok the "state" is itself in danger of becoming extinct. The growing anarchy has begun affecting the areas thus far spared the devolution plan, such as Islamabad and the cantonments in the NWFP and Baluchistan. The softening of the state in the hinterlands at the precise moment when extremism and religious militancy are climaxing are crises that are beyond the capacity of a fractious and fragmenting police organization to confront. The reality of an ungovernable country with a non-functional executive capable of establishing its writ only through the direct application of military force more than offsets any advantages that may accrue from the restoration of the Chief Justice of Pakistan after a failed presidential reference or the prospect of return to democracy under Nawaz Sharif or Benazir Bhutto. With the core executive function in a state of ruin the other institutions cannot realistically stem the rising tide of "terminal chaos" threatening the subcontinent in a manner comparable to the aftermath of the Timurid eclipse.²¹⁰

²⁰⁷ Ibid., 216.

²⁰⁸ Ibid., 200.

²⁰⁹ Ibid.

²¹⁰ Eraly, *The Mughal World*, 382.

CHAPTER SIX

DIWANS

6.1 Tax Imperia

The pre-modern continental bureaucratic empire was not so much a state as it was an agency engaged in the extraction of revenue through all the means at its disposal from the society it governed. The mandarins, guardians, praetorians and ideocrats through whom power was exercised and mediated, needed to be fed, trained, equipped, motivated and, above all else, remunerated. Martial and artistic aggrandizement required funds as did the confidential servants of the sovereign. The sovereign also had to appear as a benevolent entity and there being little moral relationship between himself and his servants and subjects, ceremonial occasions necessitated acts of generosity such as the remission of revenues, festivals, bazaars and the giving away of gifts in the form of land grants, titles and expensive jewelry. The ruler and servants also maintained lavish lifestyles and tried to live in unrivalled splendor and grandeur. All of this required wealth.

Kautilya understood the relationship between power and wealth and proclaimed that "From wealth (*kosa*) comes the power of the Government (*danda*).¹ With the treasury and the army the earth is acquired with the treasury as the ornament."² The state

¹ A near contemporary and leading example of a different emergent bureaucratic tradition was Lord Shang (d. 338 BC), adviser to Duke Hsiao of the state of Qin that unified China in 221 BC held views similar to Kautilya as did other Chinese legalist thinkers. *The Book of Lord Shang*, a compilation of legalist reflections and advice on statecraft, asserted that order, tax collection, and the power of the state flowed in harmonious sequence through the exertion of the ruler and his highest officials. The establishment of an effective order, based on laws applied equally upon the subjects and subordinate officials, was essential to controlling the tendency of officials to privatize imperial revenues and oppress (or collude with) the taxpayers. Taxes ought to be carefully calculated and applied as a proportion of actual yield with the long-term objective of weakening the autonomy of taxpayers and subordinate officials and strengthening the central state. Shang Yang, *The Book of Lord Shang*, trans. J. J. L. Duyvendak, intro. Robert Wilkinson (Hertfordshire: Wordsworth Editions Limited, 1998), 150 and 135-144.

² Kautilya, *The Arthashastra*, trans. L. N. Rangarajan, 254.

depended upon the "power of its Treasury" which in turn made possible a stronger state capable of acquiring more territory and extracting greater revenues.³ Kautilya advised the ruler to take great care in selecting his taxation officers. An overzealous officer who extracted more than the assessed revenue would ruin the country while a generous spendthrift would make unreasonable programs for expenditure and spoil the people while wasting the emperor's revenues. Especially dangerous were those officers who ate up the imperial revenues and colluded with locals. In order to keep the financial administration in check the chancellors, ministers and *adhyakshas* or departmental heads that corresponded to the rank of federal or union secretaries in Pakistan and India, were enjoined to "employ the secret agents to ensure that the servants of the State perform their duties."⁴ The senior officers were themselves under surveillance and subject directly to imperial wrath the objectives of which included rendering them compliant before the emperor and turning them into instruments for the projection of the emperor's omniscience and omnipotence lower down the bureaucracy. The emperor was thus advised in his own interest to act as a rational parasite so that the gathering of taxes worked smoothly without excessive damage to the cultivator, artisan, and merchant. It is fitting that *artha* means wealth and the *Arthashastra* translates roughly as the "Science/Discipline of Wealth". Theoretic pieties, however, did not prevent continental bureaucratic empires from becoming insatiable leviathans.⁵

The Timurid Empire was a remarkably effective revenue generating machine. It extracted between a third and a half of GNP as revenue and distributed this wealth

³ Ibid., 304.

⁴ Ibid., 305.

⁵ Raychaudhry and Habib, eds., *The Cambridge Economic History of India*, vol 1, c1200 to c1750, 173. The Delhi Sultanate was organized along similar lines as the Timurid Empire. However, the former was relatively unstable and less economic data is forthcoming about it as compared to the latter.

amongst the administrative elite.⁶ At its peak efficiency in 1647, the Timurid Empire generated two hundred and twenty million rupees of revenue. Almost six-tenths of this revenue, or one hundred and thirty-two million rupees, was received by the four hundred and fifty-five highest *mansabdars*.⁷ If we accept the lower estimate that the total revenues were one-third of GNP, then it would equal six hundred and sixty million rupees. This in turn would mean that four hundred and fifty-five individuals were allocated one-fifth of the Timurid Empire's GNP. About three-fourths of total revenues were spent on the maintenance of the military, paramilitary and militia forces while the rest was spent on the lifestyle of the administrative elite. The military assisted the provincial revenue authorities headed by provincial *diwans* who rivaled the governors and were answerable directly to the emperor. A large number of troops were worthy but poor and so received a horse and lands from the state with Turks and Persians paid twenty five rupees per month, Indians twenty rupees a month, and if employed to collect revenues the troops got only fifteen rupees per month.⁸

The concentration of revenue resources and the absence of a clear or enforceable distinction between personal and public expenditure meant that only a fraction of the total revenues was actually translated into assets that could be deployed by the state. *Mansabdars* routinely cheated the emperor by failing to maintain the requisite number of troops, horses, and stores. The emperor cheated the *mansabdars* by assigning overvalued *jagirs*, delaying salary payments and appointments, transferring them too frequently, and confiscating their assets when they fell from favor or died. When the central agency weakened from 1660 onwards, it became harder for the state to manage its resources. The

⁶ Ibid., 178.

⁷ Irfan Habib, *Essays in Indian History*, 97.

⁸ Abul Fazl Allami, *A'in-I Akbari*, trans. H. Blochmann, 225.

number of officers increased while the value of assignments in land as well as salaries decreased. Rather than working to improve the quality of the administration, rates of taxation were increased and taxes abolished by earlier emperors, such as the poll-tax on non-Muslims, were levied. These increases were self-defeating for they destroyed the productive base of the Timurid Empire, rendered it harder to govern, and led to the emergence of tax-farming. Many of the tax-farmers and *mansabdars* carved out estates for themselves, levied additional taxes, and extorted as much as they could. Even the most powerful successor states to the Timurid Empire, such as the Sikh kingdom and the Maratha Confederacy, failed to develop a regular system of revenue administration and relied heavily on plunder as opposed to regular taxation.

The rise of the British Empire in India in these chaotic conditions led to significant changes in the financial administration and political economy of India. Three aspects, in particular, stand out in the case of what has been referred to as the "Tax Britannica."⁹ The first was the introduction of parliamentary financial control and regular budgeting and accounting procedures.¹⁰ The second was the low ratio of taxes to GDP and the underlying changes to India's sources of revenue. And the third was the remarkably high proportion of what would today be called development expenditure.

The "modern budgeting system" was "developed in the West" in response to the growth of representative institutions in both their classical and feudal incarnations over a long period of time with many breaks and checks in the process.¹¹ Although in England

⁹ John Keay, *India: A History* (London: HarperCollins, 2000), 414.

¹⁰ Budgeting and auditing, in their modern forms, were introduced in India by James Wilson, the founder of the *Economist*, and the first Finance Member of the Supreme Council of India. Wilson served from November 29, 1859 to August 11, 1860, fell ill during the monsoon, and died in India. In this brief period he also introduced paper currency and the income tax.

¹¹ Hameed Akhtar Niazi, "Financial Administration" in Jamilur Rehman Khan, ed., *Government and Administration in Pakistan*, 452.

parliamentary institutions steadily gained control of public finances, from 1200 onwards it was Robert Walpole who used the term budget for the first time to describe his annual plan for revenue and expenditure.¹² Ultimate supervision of the Indian budget, first introduced in 1860, rested with the British parliament and the India Office while the system of financial controls "were primarily characterised by a concern to ensure accountability of expenditure."¹³ The system was also highly centralized under the finance member of the vice-regal council.¹⁴ The auditing system was based on "regular scrutiny" with "periodic and percentage checks of governmental financial transactions."¹⁵ The effort was to detect cases of breach of rules, wastage, "loss of funds or violations of financial propriety" and "unearth procedural deficiencies and system failures."¹⁶ From 1921, a Public Accounts Committee was constituted to oversee the auditing process and review its reports.¹⁷ In April 1924, the Central Board of Revenue (CBR) was established to collect revenues from growing non-provincial sources such as customs, excise, and income tax, as the share of land revenue in total revenues steadily diminished.

The tax-to-GDP ratio in British India varied between five and ten percent.¹⁸ The share of land revenue in total revenues declined from fifty-three percent in 1900 to seven percent in 1946.¹⁹ The share of the salt tax declined from sixteen percent in 1900 to two percent in 1946.²⁰ On the other hand the share of customs, excise, and income tax revenues rose from nine, ten, and three percent respectively in 1900 to twenty-two,

¹² Ibid., 453.

¹³ Ibid., 478.

¹⁴ Ibid.

¹⁵ Ibid., 506.

¹⁶ Ibid.

¹⁷ Ibid., 408.

¹⁸ Dharma Kumar, *The Cambridge Economic History of India*, vol II, c. 1757 – c. 1970 (Cambridge: The Press Syndicate of the Cambridge University, 1982; reprint, Delhi: Orient Longman, 1984), 931.

¹⁹ Ibid., 929.

²⁰ Ibid.

twenty-two, and thirty-seven percent in 1946.²¹ Of the total revenues about forty percent were collected by the provinces and though the relative decline in land revenue and increase in total expenditures produced dislocation the power to raise and levy sales tax meant that the provinces possessed a viable and growing source of revenue that could allow them to retain significant fiscal autonomy.

A curious feature of what is characterized as the status quo and law and order oriented British Raj was its high level of development expenditure, especially on infrastructure. In 1900, the total percentage of the budget spent on defense was twenty-two percent against twenty-one percent on health, education, and capital outlay. In 1946, defense received twenty-six percent of the budget while health, education, and capital outlay accounted for thirty-one percent of the budget. Debt servicing remained well below ten percent of the budget for the most part and the total expenditure on the administration fell from twenty-four percent in 1900 to fifteen percent in 1946. This freed up resources for financing activities as diverse as village cooperatives and heavy industries. Even more remarkable was the fiscal stability maintained through two world wars and a global economic depression with the unintended result that Britain ended up owing India money while the latter gained independence with a robust positive sterling balance. The modest levels of total collection combined with effective checks on expenditure meant that money was spent against items of real value and thus did not fuel inflation, corruption and wastage, until the speculative boom of the Second World War.²² The challenges before the Indian and Pakistani leaderships included the mopping-up of

²¹ Ibid.

²² The Indian mobilization effort included two and a half million volunteers for the military, five million additional workers employed in war industries, and an additional one million employed in the railways. Philip Mason, *A Matter of Honour* (London: Jonathan Cape, 1974), 495.

the ill-effects of the war, increasing the tax-to-GDP ratio, the reorientation of the taxation system from indirect taxes on consumption to direct taxes on incomes, improving the quality of the taxation personnel, and effective modernization of the land revenue administration. The latter sector in particular affected nine-tenths of the population even though it no longer generated a large share of total revenues.

6.2 A Free Country

Between 1952 and 2006, Pakistan's tax-to-GDP ratio ranged between eight and fifteen percent with an effective median range of ten to twelve percent. Within the taxes about four-fifths of tax revenues came from indirect taxes such as customs, excise, sales tax, and withholding taxes (WHT), technically counted as direct taxes but effectively indirect and regressive in operation.²³ Income and corporation taxes which accounted for sixteen percent of total revenues in 1952-1953²⁴ had, by 1988, fallen to about ten percent of total revenues.²⁵ The aversion to raising taxes on income was explained in terms of their supposed tendency to punish the honest taxpayer and their insufficient redistributive impact.²⁶ The "issue of direct versus indirect taxes" was dismissed as being "largely of academic interest" as an "indirect tax system" could attain a high degree of progressiveness through applying different rates on separate categories of items.²⁷ It is fascinating that when these words were written Pakistan's tax-to-GDP ratio was thirteen percent while government spending stood at twenty-five percent of GDP.²⁸ The difference was made up through foreign loans with four billion US dollars worth raised

²³ Niazi, "Financial Administration", 526.

²⁴ Ibid.

²⁵ *Pakistan Economic Survey, 1995-96* (Islamabad: Central Board of Revenue, 1996), 139.

²⁶ *Final Report of the Taxation Commission, Vol I* (Karachi: Printing Corporation of Pakistan, 1974), 11.

²⁷ Ibid., 15.

²⁸ Ibid., 19.

between 1972 and 1977.²⁹ That said, in 1960-1961 the tax-to-GDP ratio stood at nine percent.³⁰ Ayub's greatest economic asset was ready access to foreign funds on favorable terms and in 1962 seventy-three percent "of the total resources available to spend in Pakistan...were external funds" while in 1966 this figure was seventy-four per cent.³¹

From a very early stage, Pakistan's rulers took to loans and aid as convenient devices for avoiding substantial reform and rejuvenation of the tax administration. Without making the effort to raise tax collection they splurged on defense and development and took loans to make up the difference. In 1990, Pakistan's debt was twenty billion dollars and by May 1998 it increased to forty-three billion dollars.³² While in 1990 thirty-six percent of government revenues were spent on making interest, by mid-1999, sixty-one percent had be spent on interest payments.³³ The tax-to-GDP ratio fell from fourteen percent in 1994-1995 to thirteen percent in 1999-2000 and eleven percent in 2005-2006. Even the most competent financial administrators defined success in terms of securing foreign loans on whatever terms possible. In the context of the political instability of the late-1980s and 1990s, the rotation of governments led to nine agreements being signed between Pakistan and the International Monetary Fund (IMF).³⁴ Given that the IMF "enjoys excessive concentration of power, and has virtual monopoly of knowledge and ideas in prescribing what are the right policies"³⁵ it pushed Pakistan along the path of trade liberalization and structural adjustment. This meant a reduction in customs receipts which the state made good by raising the sales tax and withholding

²⁹ Ishrat Hussain, *Pakistan: The Economy of an Elitist State* (Karachi: Oxford University Press, 1999), 27.

³⁰ *Final Report of the Taxation Commission*, Vol I, 24.

³¹ *Ibid.*

³² Ishrat Hussain, *Economic Management in Pakistan, 1999-2002* (Karachi: Oxford University Press, 2003), 2.

³³ *Ibid.*

³⁴ *Ibid.*, 10.

³⁵ *Ibid.*, 7.

taxes, especially on transactions and withdrawals. It also meant that Pakistan's ratio of taxes to GDP remained low while dependency on external funding was reinforced.

As of June 2006 Pakistan, had one and half million income tax payers (population one hundred and sixty million) and one hundred and seventeen thousand sales tax payers.³⁶ Direct taxes were estimated at thirty percent of the seven hundred and twelve billion rupees (twelve billion US dollars) of revenue collected but of these sixty-percent were withholding taxes with "deductions...made at the source" on twenty-five heads including contracts, telephones and cash withdrawals.³⁷ The criticism of the withholding taxes notwithstanding they were "regarded as an effective mechanism to improve the tax net given the large segment of informal/undocumented economy."³⁸ In June 2006, the direct taxes amounted to three percent of GDP. Relative to the size of GDP and its commitments Pakistan is less able today to generate revenue through taxation of its own land, people, and resources than in the crisis-ridden mid-1990s. Without the generous influx of American aid and the rescheduling of debts in exchange for cooperation with US strategic objectives and loans from international financial institutions, which amounted to fifteen billion US dollars between 2003 and 2007, Pakistan's financial administration would simply collapse. This dismal fiscal performance has contributed to Pakistan's ungovernableness and is the consequence of the structure and ethos of the financial administration.

³⁶ *CBR Yearbook 2005-2006* (Islamabad: Directorate of Research and Statistics, Government of Pakistan, 2006), 16-17.

³⁷ *Ibid.*, 31-32.

³⁸ *CBR Yearbook 2004-2005* (Islamabad: Directorate of Research and Statistics, Government of Pakistan, 2005), 15.

6.3 To and From the Center

The central government in Pakistan collects ninety percent of all revenues. The one dynamic source of revenue the provinces had in the form of the sales tax was taken from them in 1948 to meet the challenges of the state of siege. While some senior officers, such as A. G. N. Kazi, argued that the sales tax and proposed income tax on agriculture should be handed over to the provinces and that provincial fiscal autonomy would allow *more* taxes to be collected and *reduce* provincial liabilities, no changes were made in the structure of taxation.³⁹ Simply increasing the size of the divisible pool, Kazi argued, would only result in more political pressure "being built up for its division."⁴⁰ This scramble for resources doled out by the center fuelled provincial discord and could be dealt with if the sales tax was "placed in the provincial sphere of taxation."⁴¹ The disparity between central and provincial revenues is plainly evident. In 1987 and 1994, the center raised from the sources under its control, eighty-nine billion rupees and two hundred and fifty-seven billion rupees in tax revenues, respectively, from the sources.⁴² Against this, the provincial revenues from taxation amounted to four and a half billion rupees in 1987 and nine and a half billion rupees in 1994.⁴³ Thus the provincial tax revenues as a percentage of central tax revenues stood at five percent in 1987 and about four percent in 1994. This the trend from the late 1980s to the mid-1990s and it was therefore hardly surprising that in 2006, the center accounted for ninety-two percent of total revenue collection and financed the provincial and local governments through a system of awards and transfers that begin and end with the central government.

³⁹ *Report of the Finance Commission, 1962* (Karachi: Government of Pakistan Press, 1962), 24.

⁴⁰ *Ibid.*, 26.

⁴¹ *Ibid.*, 25.

⁴² *Pakistan Economic Survey, 1995-1996* (Islamabad: Government of Pakistan, 1996), 138.

⁴³ *Ibid.*

As the center collects taxes and negotiates deficits by borrowing from home and abroad it is natural that it should control and directly administer expenditure in areas that affect local and provincial interests. One of the fundamental imbalances in Pakistan's financial administration is that while almost everything that materially affects the quality of life of the average citizen, such as health, education, law and order, municipal services, and conciliation, falls under the statutory purview of provincial or local governments, almost the entire allocation and spending is done through the central government. In 1979 the center accounted for some three-fourths of the total state expenditure while in 1989 it accounted for seven-tenths of the total.⁴⁴ After federal expenses were met the balance was shared amongst the provinces through central award and transfers. Current expenditure rose from ten percent of GDP to eighteen percent of GDP in between 1971 and 1994, development expenditure peaked at eleven percent of GDP in 1976 and thereafter went into decline until 2002.⁴⁵ By 1994, development expenditure stood at about four percent of GDP against nearly six percent for defense and five percent for interest payments.⁴⁶

The wastage that an over-centralized, often incompetent, and utterly unaccountable financial administration engages in is enormous. Revenues are raised through indirect taxes on consumption, which punish the poor and middle classes, or through withholding taxes and taxes on savings which, again, hit the lower income groups the hardest. The rich get away with minimal taxation and to make up the difference between its tax revenue and expenditure the government borrows from any and all sources and prints money thus fuelling price inflation that again crushes the urban

⁴⁴ S. Akbar Zaidi, *Issues in Pakistan's Economy*, 208.

⁴⁵ Ibid., 206.

⁴⁶ Ibid.

poor and middle classes and rural wage laborers.⁴⁷ Since the borrowed amount has to be paid back through tax revenues, it effectively means that the poor will be taxed disproportionately to raise the requisite funds. The borrowed funds are often spent on development for the benefit of the poor. Planning and execution by remote control means that only "a small ratio" actually spent reaches the "earmarked target groups".⁴⁸ Most of the money spent by the center on development "has either lined the pockets of the consultants, contractors, and engineers or has simply been wasted."⁴⁹ Central expenditures and transfers for development represent a terrible hemorrhage of largely borrowed funds that the Pakistani poor will have to repay through the indirect taxation pitilessly visited upon them and the direct taxation imposed on the middleclass professionals who operate in the formal sector.⁵⁰ On balance, "only 30 per cent of the benefit of development funds actually reaches the target groups."⁵¹ Other officials put the leakage at as high as eighty or ninety percent but hardly anyone would be prepared to admit in private to more than a third of development funding actually reaching the intended beneficiaries. If we accept the conservative estimate it means that if Pakistan spends six percent of GDP on development, four percent of GDP would be wasted. Given the low tax-to-GDP ratio this translates into the direct wastage by the center of about a third of the tax revenues it generates through an overwhelmingly regressive taxation regime. Since the rich make do for themselves, it may be advisable that the state reduce development expenditure to two percent of GDP, rigorously supervise its disbursement,

⁴⁷ Subsistence farmers as they grow their own food are in part insulated from food inflation. In discussion with capitalist farmers I found that the inflation in food prices does not translate into higher prices for the ordinary farmer.

⁴⁸ Siddiqui, *Towards Good Governance*, 16.

⁴⁹ Ibid.

⁵⁰ Ibid., 29.

⁵¹ Ibid., 30.

and eliminate indirect taxes on items such as edible oils, tea, cigarettes, medicines, and other items of daily consumption and try to curtail its propensity to hurt the poor by superficially trying to help them. The undermining of the inspectorial controls on the administration as a whole were and are precisely the cause of general decay in the ability of the apparatus to raise and spend revenues. Qualitatively, however, centralization of the revenue collection and expenditure has a singular advantage in that the CBR is the institution primarily responsible for collecting taxes and thus by improving its performance the financial administration can be salvaged.

Taking stock of the situation the Taskforce on the Reform of Tax Administration constituted by the Musharraf regime, reflected that Pakistan's financial administration had evolved along five mutually reinforcing lines. The most important was the sheer arbitrariness and frequency with which "legal and administrative changes were made."⁵² Whereas between 1947 and 1988, the CBR had fifteen heads making for an average tenure of two years and ten months, it had thirteen heads between 1988 and 1999 making for an average tenure of ten months. Even the status of the CBR changed from one government to another. With such arbitrariness governing the status and leadership of the CBR it was not surprising that "major policy changes" were "not accompanied by adequate changes in the administrative framework."⁵³ The relationship between the tax payers and collectors was substantially adversarial, while the collection machinery had failed to keep pace "with the growing demands on tax administration."⁵⁴ The CBR itself was pinned down by its own mass and lack of efficiency in personnel management. The

⁵² *Report of the Taskforce on Reform of Tax Administration, April 14, 2001* (Islamabad: Central Board of Revenue, Government of Pakistan, 2001), i.

⁵³ Ibid.

⁵⁴ Ibid.

tax officials were simply “not paid a living wage” while honesty was an almost impossible proposition with the bulk of the 33,000 persons employed in the tax administration locked in “the lower ranks with low productivity” which made for an immense “drag on the system.”⁵⁵ Since 1947 the tax-to-GDP ratio “varied narrowly around eleven percent” and income tax payers were “less than one percent of the population.”⁵⁶ The Taskforce warned:

Pakistan’s fiscal crisis is deep and cannot be easily resolved. Taxes are insufficient for debt service and defense. If the tax to GDP ratio does not increase significantly, Pakistan can not be governed effectively, essential public services can not be delivered and high inflation is inevitable.⁵⁷

Pakistan’s Old Regime, like its French counterpart two centuries earlier, had reached a point where it had to either raise more taxes, or hope for a miracle, or await its inevitable demise. As it happened, the revival of strategic and economic ties with the United States of America following the September 11, 2001 attacks, gave the Pakistani ruling elite a respite. Instead of taking the opportunity to reform it soon reverted to its old habits and allowed the tax-to-GDP ratio to remain stagnant at around eleven percent.

About seventy percent of the direct taxes collected were withholding taxes and many of these were presumptive taxes levied on transactions and could not in any honesty “qualify as income tax.”⁵⁸ Thus, *real* taxes on earned income accounted for one percent of GDP. Of the one million tax payers four hundred and forty thousand were salaried persons, many of them government servants, and “subject to little scrutiny.”⁵⁹ About two hundred and seventy-five thousand fell under the self-assessment scheme and

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid., ii.

⁵⁹ Ibid., iii.

only about twenty-five to thirty percent of income tax payers received more detailed scrutiny.⁶⁰ Whereas in 2000, 0.7 percent of the population paid income tax,⁶¹ in June 2006, 0.9 percent of the population paid income tax.⁶² The income tax collectors and assessors routinely lost files or tampered with them and were "ill equipped for the job, particularly to deal with complex tax returns of businesses."⁶³ These poorly trained and remunerated collectors would "arbitrarily fix the taxpayer's income and expenses" and also being involved in the appeals process could effectively coerce the honest and collude with the dishonest.⁶⁴ All too frequently the taxes were "negotiated, with substantial loss to the treasury" and profit to the collectors and payers.⁶⁵ At the stroke of a pen a low grade employee can substantially increase or decrease the tax liability of a businessman or industrialist. If, however, the taxpayer opted for collusion with the taxation staff they became subject to blackmail. If they refused to collude then over-assessment could ruin them financially and open the door to endless litigation.

The sales tax generated revenues equal to four percent of GDP albeit with only sixty-two thousand registered taxpayers in 2000.⁶⁶ In June 2006, the number of registered taxpayers under this head had risen to one hundred and seventeen thousand⁶⁷ although a mere seventeen industries contributed eighty percent of all indirect direct taxes with half of them accounted for by petroleum, automobiles, machinery, cigarettes, telecom, and

⁶⁰ Ibid.

⁶¹ Ibid., iv. 1 million out of a total population of 140 million.

⁶² CBR Yearbook 2006-2006, 16. Or 1.49 million out of a total population of 160 million.

⁶³ Report of the Taskforce on Reform of Tax Administration, April 14, 2001, iv. A contradiction in this statement is that if the taxation staff were genuinely that ignorant of the rules and procedures involving businesses it would be a lot easier for businessmen to dupe them and get away with minimal pay-offs.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Ibid., vi.

⁶⁷ CBR Yearbook for 2005-2006, 17.

iron and steel.⁶⁸ The auditing mechanism had broken down with productivity reduced to "1.2 audits per auditor per month" as against the international standard of "5 audits per auditor per month."⁶⁹ Twenty-nine percent of the audit staff was "conducting work other than audit and refund scrutiny."⁷⁰ In terms of effectiveness this meant that ninety-three percent of general sales tax (GST) payers would not be audited in any given year making detection of malpractice an accidental occurrence.⁷¹

Between 1952 and 1991, the customs department, which was the major revenue generator, was steadily declining in relative importance due to international trade liberalization. By 2000, its contribution to tax revenues stood at eighteen percent. Even in its declining role the customs maintained "a large number of low paid employees" who demanded "'speed money' for moving documents from one desk to another or retrieval of any document from congested and chaotic record rooms."⁷² The lot of the supplicant was characterized by inordinate and unpredictable delays and addition to compliance costs.⁷³ The system was tedious, wasted time, and lent itself admirably to collusive malpractice between businessmen and customs agents.⁷⁴ Customs procedures had changed little from the early twentieth century and were defensive relics of an age when the volume of trade was relatively small and trade policies were restrictive.⁷⁵ The introduction of greater automation and computerization under electronic governance initiatives displaced a proportion of the obstruction and corruption to the data entry and control staff and actually made such illicit activities faster and more efficient as senior

⁶⁸ Ibid., 33-34.

⁶⁹ *Report of the Taskforce on Reform of Tax Administration, April 14, 2001*, vii.

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Ibid., x.

⁷³ Ibid., xi.

⁷⁴ Ibid.

⁷⁵ Ibid. The coast guards are poorly trained and ineffective against smuggling.

officers often lacked the supervisory skills. One senior official remarked that in the absence of governance, attempts to introduce electronic governance were laughable as even of the tiny percentage of citizens with computers most would simply not trust the state with their credit card numbers. Ultimately, it would appear, it was the quality of the tax administration personnel, not the electronic equipment at their disposal, which mattered.

The quality of the tax administration personnel was poor and characterized by demoralization, internecine rivalries, and general incompetence. Seventy-five percent of the officers were recruited through the Central Superior Services (CSS) examinations for the income tax and customs groups and twenty-five percent through promotion from the lower grades. The CSS, being a general exam in which higher aggregate marks determine the cadre into which successful candidates are inducted, did not bring in people with requisite background knowledge of economics, public administration, and humanities, while the "recruitment of non-officers is heavily influenced by interest groups and has resulted in the employment of a large number of unqualified and incompetent people."⁷⁶ Promotions were too slow and based primarily on seniority which led to mediocre and corrupt timeservers moving up with competent officers, breeding a sense of entitlement amongst the former and exasperation amongst the latter. With the ratio of one officer to ten non-officers in the direct taxes administration and one officer to thirty-nine non-officers in the indirect taxes administration, effective supervision was next to impossible.⁷⁷

⁷⁶ *Ibid.*, xv.

⁷⁷ *Ibid.*, xvi.

Intriguingly, the post-2002 reforms have not improved the actual performance of the CBR even relative to its performance between 1995 and 2000. During these five immensely difficult years the number of income tax returns rose from two hundred and fifty thousand to one million. Since 2000 only five hundred thousand new income tax payers have been added. The rate of increase in the case of income taxes is thus absolutely and relatively inferior to 1995-2000. On the sales tax front the number of returns filed rose from thirty thousand in 1995 to sixty-two thousand in 2000, while by June 2006 the total was one hundred and seventeen thousand. The absolute increase is impressive but the relative increase is inferior to that achieved in 1995-2000. The difference is probably due to the non-availability of easy money from abroad during the 1990s. Post-2001, when foreign funds became available on relatively easy terms, the government allowed the tax-to-GDP ratio to remain stagnant in the ten to eleven percent range.

The CBR had gradually been converted into an instrument of "the rulers and their interest groups."⁷⁸ Successive regimes beginning with the import substitution industrialization policies of the 1950s and 1960s used the taxation system to reward favorites and cronies with bonuses, exemptions, tip-offs, and other forms of policy manipulation. The beneficiaries of this largesse were trader-merchants such as the Adamjees, Dawoods, Saigols, Isphahanis, Karims, etc., who were first given industrial assets out of the evacuee pool or built by the PIDC and then patronized by the state through protective barriers and special treatment in order to convert them into industrial capitalists.⁷⁹ Later rulers resorted to cruder devices such as the issue of special temporary

⁷⁸ Ibid., 166.

⁷⁹ Shafqat, *Civil Military Relations in Pakistan*, 41, 45.

exemptions on customs duties on individual items or industries. In this manner temporary reductions on duties along with the intended beneficiaries given adequate forewarning were granted for luxury cars, sugar, computer parts, and scrap metal during the 1990s.⁸⁰ Those who stood up to the rulers "had to pay a price" in terms of transfers and circumvention and the executive's consistent effort since the 1950s was to place "handpicked officers in key positions in the tax administration to get their work done."⁸¹

With the rulers treating the revenues and the institutions and officers responsible for their collection in an arbitrary and proprietorial manner, the scribes and accountants were liable to do the same, some enthusiastically, other cautiously, and quite a few out of sheer desperation. An officer testified to this effect:

I joined service with great enthusiasm and a mission to serve the people. Unfortunately, I had to start my career with breaking a law and it has been the same ever since. I was forced to break the law as the State conveniently ignored its responsibilities towards its employees. My bosses were completely indifferent to our situation. Islamabad, in its wisdom, simply directs us to open two more offices and then expects to fend for ourselves. The situation is so bad that one has to be dishonest just to keep oneself honest.

I am expected to pay for my petrol when I go for official rounds. I am expected to pay for paper, typing, photocopying, even postage. All of this is official work. It adds up to Rs. 6000 per month. Am I mad to pay it from my pocket? What do they (Islamabad) expect? They know everything.⁸²

As of July 2007, six years after the Taskforce on Reform of Tax Administration submitted its report, the basic pay of a junior officer in grade eighteen is approximately ten thousand rupees per month. Including all other allowances the amount reaches twenty-two thousand rupees per month. With inflation increasing it is simply surreal to expect that the tax administration will not, like its medieval equivalents, live off the land. The instances "where tax collectors are expected to deliver by 'living off the land' are

⁸⁰ *Report of the Taskforce on Reform of Tax Administration, April 14, 2001, 167.*

⁸¹ *Ibid.*

⁸² *Ibid.*, 175. Six thousand rupees equals about one hundred US dollars.

innumerable."⁸³ This practice "has led to massive" disheartening effects and shattered the junior officers' trust in the competence and sincerity of senior officers dissolving institutional cohesion and *esprit de corps*. The predator-prey mindset that this mode of tax administration has encouraged has led as many people as possible to try and escape contact with collectors and find that it is more economical and less stressful to evade taxes than to actually pay them.⁸⁴

The environment within the CBR was vitiated by the politicized manner of recruitment of the lower staff and the role of vested interests in filling up the ranks of promoted officers. The officers who came via the CSS were often too old to be trained in the highly technical and complex profession they found themselves in. The Common Training Program was too short, irrelevant, and of little professional value though it did allow the new entrants to network with those in other occupational groups. The Specialized Training Program was hampered by inadequate faculty, a lack of professional orientation, and was of little utility to the officers insofar as their actual duties were concerned. These new recruits, most of them lacking the proper educational background, and having received woefully inadequate training, were thrown into battle against thirty thousand entrenched clerks, accountants, assistants, and support staff, often without support or guidance from their senior colleagues.

Whether on the direct or indirect taxes side, officers were surrounded by colleagues divided into those who cannot work and those who do not work. In the case of the direct taxes administration there were fourteen thousand staff in grades one through fifteen while in the indirect taxes administration there were about sixteen thousand five

⁸³ Ibid.

⁸⁴ Ibid., 177.

hundred, or ninety, and ninety-two percent of the total establishment strengths, respectively.⁸⁵ When the non-officers in grade sixteen were added the percentage of officers was six and a half percent in the direct taxes administration and two and a half percent in the indirect taxes administration.⁸⁶ The patently "irrational manpower recruitment policy" had immersed the CBR in a "clerical culture" that infected and overwhelmed officers.⁸⁷ The majority of the employees were "unproductive" but their maintenance in terms of salaries and benefits resulted in "inadequate salaries for all employees."⁸⁸ With far too many officers "paying almost their entire salaries for house rent" thanks to the equalization and democratization of public sector salaries pursued by successive regimes, the CBR was plagued by demoralization, poor performance, and corruption.⁸⁹

While the system has been tinkered with no fundamental reform has been attempted. The 2005-2006 year book for the CBR proclaimed that the tax administration had been "transformed into a modern, progressive, effective and credible organization" and boasted that its "new LOGO and FLAG" inaugurated by the prime minister were of great significance and thus "both these events have been given due prominence."⁹⁰ This self-congratulatory rhetoric is a manifestation of the state apparatus's desire to please the boss and engage in crude self-deception. Rhetoric about promoting a better tax culture aside, reform of the financial administration needs to confront the propensity of the rulers and their servants to act arbitrarily and unaccountably. Another manifestation of the same

⁸⁵ Ibid., 195.

⁸⁶ Ibid., 196.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Ibid., 197.

⁹⁰ *CBR Yearbook for 2005-2006*, i.

tendency is the neglect of the rural administration, particularly the land revenue administration, which directly affects seven-tenths of the Pakistani population that lives in the countryside.

6.4 Forgotten Lands

Even in 2006-2007, agriculture directly accounts for one-fourth of Pakistan's GDP and employs the bulk of the workforce. Its capitalist side provides Pakistan's textile, tobacco, food processing, and leather goods industries with raw material. In between harvests agricultural labor is often used for such backbreaking work as cleaning canals and waterways or less strenuous activities such as domestic help in the urban areas. With only one percent of landowners in possession of over fifty acres of land, the vast majority of rural denizens are subsistence farmers, tenants, or serfs. With as much as seventy percent of the population living in the countryside trying to eke out a meager existence from increasingly uneconomic landholdings, it is *their* interaction with the state that constitutes the preponderance of Pakistan's experience of governance. To the policy planners, development experts, and senior officials, the agriculturalist is a victim of history and part of the collateral damage of the war for industrialization. Through the interplay of the cynical indifference of officialdom and the utopian certainties of the development community there remains the unmitigated bleakness of existence in the hinterland. Other than attacking the land revenue administration as a relic of the colonial past and loudly proclaiming that it must make way for development or dismissing it as irrelevant to the financial administration as land revenue accounts for less than one percent of total revenues, little has been done to improve it.

Some argue that this neglect has been a good thing for Pakistan. This is so not because the land revenue administration is efficient or just or not in need of reform but given the hatchet-job reformers have inflicted upon other parts of the state they would only make things worse by turning their gaze towards the countryside. The consequences of tampering with the land revenue administration, it is warned, could include mass rural unrest, upsurge in criminal activity, and violent internal migrations. The land revenue administration acts as an anchor and enjoys the support of the better off segment of the rural population. Given Pakistan's reformatory experience this line of argument cannot be lightly dismissed.

In 1977, the Committee on Revitalization of Revenue Administration noted that the abolition of land taxes on holdings of less than twenty-five acres of irrigated land meant that ninety percent of land owners accounting for sixty-eight percent of "total privately owned land in the country" were no longer subject to taxation.⁹¹ Before the 1975 reforms, land revenue was collected from eleven million landowners accounting for six and a half million acres and generated one hundred and twenty million rupees of revenue.⁹² After the reforms one million two hundred thousand landowners with three million four hundred thousand acres were taxed though with changes made in 1977 this figure declined to four hundred and forty thousand landowners with two million acres of land liable to pay taxes.⁹³ This meant that by 1977 one percent of the landowners accounted for eighteen percent of the cultivated area and paid sixty-four percent of the land revenue.⁹⁴

⁹¹ *Report of the Committee on Revitalization of Revenue Administration*, Vol 1, July 1978, 31.

⁹² *Ibid.*, 73.

⁹³ *Ibid.*

⁹⁴ *Ibid.*, 74.

Other than reducing the level and scope of taxation or changing the formula through which taxes were to be calculated, successive governments did not appreciate that disputes arising from rights in lands and land revenue brought the largest number of people into contact with the state apparatus and was therefore one of the most important determinants of how people perceived the state.⁹⁵ Most citizens had never seen, nor, perhaps, would ever see, an income tax or customs officer. To the average citizen the state was for all practical purposes the *patwari*, the *tehsildar* and deputy-*tehsildar*, the assistant collector, the assorted agricultural and irrigation staff, and the police constable. The combination of political pressure and development work left "the already harassed District and Divisional heads" little time to supervise the land revenue administration or attend to the complaints of the rural masses.⁹⁶ This had led to pervasive "insecurity and instability" with the "efficiency and objectivity of revenue and district administration" gravely undermined.⁹⁷ It was generally admitted that since 1947 there was "progressive deterioration in the maintenance of the revenue record."⁹⁸

The pivot of the land revenue administration was the deputy commissioner in his capacity as district collector. It was his responsibility to collect the land revenue, maintain statistics and act as the "guardian and registrar of the rights in the soil enjoyed by private persons."⁹⁹ The collector also adjudicated disputes between tenants and landlords and acted as the "custodian of state property."¹⁰⁰ The increased emphasis on development work had led to a "growing neglect of touring", with a greater concentration

⁹⁵ 1959, File No. 196/CF/59, Government of Pakistan, Cabinet Secretariat, "Standardisation of Land Revenue throughout West Pakistan", 1. In April 1959, for instance, the government of West Pakistan separated the land revenue from the water rate. Ibid.

⁹⁶ Ibid., 18.

⁹⁷ Ibid.

⁹⁸ *Report of the Provincial Administration Commission, February 1960*, 161.

⁹⁹ Ibid., 167.

¹⁰⁰ Ibid.

of work in the district headquarters and the "intimate contact with the rural masses" vital to the efficient and just operation of the revenue administration was being lost.¹⁰¹ The tremendous imbalances in the countryside between the larger and smaller landlords and between landlords and tenants necessitated the "interdependence of judicial and executive functions" in the land revenue administration.¹⁰² Proposals to separate land revenue from the general administration would diminish the "career prospects" of revenue officials and lead to great demoralization.¹⁰³ The land revenue administration "would lose the umbrella of the prestige and influence of the Deputy Commissioner and Commissioner" if a separation of functional powers were implemented and once the strong hand was removed "inefficiency and corruption" would increase.¹⁰⁴

In the 1980s the collectors, assistant collectors, *tehsildars*, and *patwaris* were kept so busy with "miscellaneous" work that they had "hardly any time [left] to attend to their real work."¹⁰⁵ Under the devolution scheme implemented in 2001, landlords with more than fifty acres came to dominate the districts as elected *nazims* and use the revenue administration now separated from the general administration and under its own revenue officers as an instrument of power and patronage. With the general administration decapitated and floundering "Dispute and factionalism between" kinships and castes often characterized by "obsessive" compulsions to diminish a rival party's *izzat* (honor/prestige) and establish one's own "*chaudhrahat* (dominance)" have been exacerbated by the now overtly politicized land revenue administration.¹⁰⁶

¹⁰¹ Ibid., 171.

¹⁰² Ibid., 164.

¹⁰³ *Report of the Committee on Revitalization of Revenue Administration*, Vol 1, July 1978, 22.

¹⁰⁴ Ibid.

¹⁰⁵ Qayyum, "Land Revenue Administration", 336-337.

¹⁰⁶ Shahrukh Rafi Khan, *Initiating Devolution*, 181.

The seriousness of land revenue administration and its relationship to the overall governability of an overwhelmingly rural country cannot be underestimated. And yet, those who matter in the power structure simply do not care. Those who ostensibly care are subservient to American tutelage with its desire to transform the rural administration and society with "a systematic research for democratic social technology"¹⁰⁷ and do not understand the motivations, needs, and requirements of rural society and how these are embedded in the structure of land revenue administration and related areas. Those who understand, or have the capacity to do so, do not matter and are isolated from and demoralized by the generously donor-funded public discourse.

6.5 Golden Sovereigns and Economic Governance

If Kautilya or Shang Yang were to examine Pakistan's financial administration, several of its facets would strike them as incomprehensible and self-defeating. The first is the absence of consistent, meaningful, and effective efforts to raise revenues from within the state's frontiers given the availability of sufficient resources. The second is the eagerness of the Pakistani elite to enter into tributary-mercenary relationships with other states in order to spare itself the hardship of generating tax revenues. The third is the weakness of the apparatus even in securing and distributing enough resources for its own sustenance while it wastes funds on luxuries and favors. And finally, the lack of seriousness with which financial administration, one of the core areas of governance, was and is approached would probably appall them. Indicative of this transparent combination of ineptitude and complacency was that by 1990 Pakistan direct taxes accounted for less than two percent of GDP, or not even half the percentage for countries with per capita

¹⁰⁷ M. A. K. Beg, "Rural Development", in Jamilur Rehman Khan, ed., *Government and Administration in Pakistan*, 667.

incomes of less than three hundred and sixty dollars.¹⁰⁸ Collection of indirect taxes as a share of GDP was no better than other low-income countries.¹⁰⁹

Pakistan has muddled through sixty years in a state of permanent underdevelopment without a financial administrative policy worth the name. It does not seem that any regime seriously considered the material and psychological requirements of an effective financial administration. They also appeared indifferent to the impact that prolonged failure to collect and spend taxes efficiently and justly would have on the overall credibility of the state. The CBR and land revenue administration were perceived as instruments, the former for national leaders the latter for provincial and local leaders, through which favors, punishments, and inducements could be dispensed. Just as the center depended on handouts and loans from abroad that ultimately crippled its fiscal flexibility the provinces and local governments depended on loans and grants from the center. National, provincial, and local self-government are all the consequences of fiscal autonomy the erosion of which leads the debtors and dependants into an asymmetrical relationship with their creditors and patron. At the highest levels from an early stage the effort was to attract by any means necessary foreign aid and patronage:

Increasing importance is now being attached to the operation of centralised planning organisations, especially by the aid-giving countries which tend to judge an aid-receiving country's competence by the standing and quality of its planning agency. It has been suggested, therefore, that the status and operational strength of the Planning Commission should be brought to a higher level than at present.¹¹⁰

There is no intrinsic moral difference between the senior bureaucrat who defines his competence in terms of the foreign currency loans he negotiates and the minister who

¹⁰⁸ S. Akbar Zaidi, *Issues in Pakistan's Economy*, 211.

¹⁰⁹ Ibid.

¹¹⁰ *Report of the Administrative Reorganisation Committee*, 223. This committee deliberated between 1958 and 1960.

signs the agreement into effect on the one hand and the professional beggars on the streets of Pakistan. Indeed, begging is a national pastime. Pakistani diplomats beg for credits, development assistance, and visas. Businessmen and the eternally infant industries beg for protection, subsidies, and easy loans. NGOs beg international donors and the State of Pakistan to fund their pursuit of "democratic social technology" and "just and democratic governance".¹¹¹ Clerics beg for alms, and lately arms, along with lands and subsidies from local and foreign sources. With mere ten or eleven out of every hundred rupees going into the state's coffers Pakistan could double the tax-to-GDP ratio with great benefit to both citizens and the state without overburdening the economy. That, however, would require stable law and order conditions, effective supervision of the collection machinery, inspection, audit, and a qualitative and quantitative reform of the principles as well as details of the entire financial administration.

Substantially responsible for the woes of the financial administration are the sheer arbitrariness and irresponsibility with which the economic governance of Pakistan has been carried out. This arbitrariness was in evidence during the desperate early years although between 1953 and 1969 the governing corporation did achieve a measure of stability. After Yahya's brief but disastrous rule, Bhutto replaced the "centralized economic planning and its technical/institutional competence with a highly personalized and ad hoc approach."¹¹² In the case of the nationalization of two thousand eight hundred

¹¹¹ In their own defense, the intellectual dependents cultivated by American patronage believe that their ideas, though "imported" had been "spontaneously adopted, internalized, and brought into the public sphere" by the NGOs. Shahrukh Rafi Khan, ed., *Fifty Years of Pakistan's Economy: Traditional Topics and Contemporary Concerns* (Karachi: Oxford University Press, 1999), 3. What is remarkable is that the Anglophone leaders of the social sector in Pakistan define their competence in terms of their ability to mimic the movements of American academia as it devises prescriptions to its own problems. Decentralization, structural adjustment, empowerment, grassroots mobilization, sustainable development, etc., are thus imitated without empirical appreciation of the realities on the ground in Pakistan.

¹¹² Ishrat Hussain, *Pakistan: The Economy of an Elitist State*, 25.

and fifteen units of the agricultural processing industry there was "no evidence on record" that indicated any careful consideration.¹¹³ Evidently, it was a "one-man decision" with "even the cabinet" informed after the confiscations had "already been set in motion."¹¹⁴ The confiscation of large-scale manufacturing units led private investment to fall from one billion three hundred million rupees in 1971 to less than half a billion rupees in 1976 while public sector investment rose from sixty-three million rupees to nearly one billion two hundred million rupees during that same period.¹¹⁵ In the planning of the nationalization of the banking sector, carried out on January 1, 1974, the State Bank of Pakistan (SBP) was not even consulted.¹¹⁶ While a bloated and inefficient public sector was established, little attempt was made to improve the financial administration whose audit function was now hugely increased owing to the growth in the number and size of public entities. In January 1976, the CBR identified seventy thousand potential taxpayers and they were threatened with severe consequences which led to four thousand new income tax returns.¹¹⁷ Combined with inflation, this led to a fifty-six percent increase in income tax collection as compared to 1974-1975.¹¹⁸ That said, enforcement was lax and there were merely thirty-four prosecutions for income tax related offences.¹¹⁹ With the flow of aid from the West reduced, the state was forced borrow from its erstwhile patrons causing total external debt to rise between 1972 and 1977 from three billion seven hundred million dollars to six billion three hundred million dollars.¹²⁰ The

¹¹³ *White Paper on the Performance of the Bhutto Regime*, Vol. IV, *The Economy* (Islamabad: Printing Corporation of Pakistan, 1979), 30.

¹¹⁴ *Ibid.*

¹¹⁵ *Ibid.*, 52.

¹¹⁶ *Ibid.*, 63.

¹¹⁷ *Federal Taxes Administration Report, 1975-76* (Islamabad: Central Board of Revenue, 1977), 6.

¹¹⁸ *Ibid.*, 7.

¹¹⁹ *Ibid.*

¹²⁰ *White Paper on the Performance of the Bhutto Regime*, Vol. IV, *The Economy*, 1.

real impact was felt in terms of the shattering of confidence in Pakistan's financial institutions and the atmosphere of distrust and subterfuge that it bred. The state was ill equipped to manage productive assets and though privatization began soon after Bhutto's overthrow in 1977 it was restricted and often politically motivated.

Zia's years in power coincided with rapprochement between the United States and Pakistan following the 1979 Soviet invasion of Afghanistan. With remittances pouring in from the oil-rich Middle East and billions of US dollars worth of Saudi and Western money in economic, military, technical, and clandestine assistance being pumped into Pakistan, Zia and his unimaginative financial team chose to govern and change nothing beyond opportunistic privatization. Interest payments, less than two percent of GDP in 1977, rose to five percent of GDP by 1988.¹²¹ Defense expenditure, about five and a half percent of GDP in 1977, rose to nearly seven percent of GDP in 1988.¹²² Development expenditure fell from ten percent of GDP in 1977 to seven percent of GDP in 1988.¹²³ Fiscal deficits were less than six percent of GDP only in 1980-1981 and 1981-1982 and otherwise ranged between seven and nine percent of GDP with eight percent deficits in 1979, 1985, 1986, and 1988.¹²⁴ The overall tax-to-GDP ratio ranged between eleven percent in 1978 and fourteen percent in 1988 with direct taxes stagnant at less than two percent of GDP and indirect taxes rising from nine to nearly twelve percent of GDP.¹²⁵ Domestic debt surged from twenty-one percent of GDP in 1980-1981 to forty-three percent of GDP in 1988.¹²⁶

¹²¹ S. Akbar Zaidi, *Issues in Pakistan's Economy*, 206.

¹²² Ibid.

¹²³ Ibid.

¹²⁴ Ibid., 205.

¹²⁵ Ibid., 211.

¹²⁶ Ibid., 223.

What followed after 1988 was more of the same minus American grants and aid and phased reduction of customs duties eating into state revenues. Although the number of income tax returns quadrupled between 1995 and 2000 while sales tax returns doubled, successive governments took loan after loan from international financial institutions and acquired a crippling foreign debt burden in addition to the burgeoning domestic debt that was Zia's legacy. Although both PPP and PML governments agreed with IMF programs and policies leading to a policy consensus, they also spent most of their time and energy questioning, investigating, and reversing their predecessor's policies. The combination of arbitrariness, tactical cunning, "policy reversals and adventurous economic initiatives," with each group trying to use the financial administration to "establish political power and supremacy" brought the economy and the state finances to a nadir.¹²⁷ The dispute with independent power producers, the on-again off-again motorway project, the yellow cab scheme, and freezing of eleven billion US dollars worth of foreign currency accounts following the nuclear tests in May 1998, and the prime minister's housing scheme in the works in 1999, were the major "policies" pursued between 1988 and 1999.

After 2002, the anti-terror alliance with the United States has, as was the case during the Ayub and Zia periods, temporarily resolved Pakistan financial administrative crisis. The rate of increase in the number of income tax and sales tax payers has slowed since Musharraf took over which is strange given that the regime claims GDP and per capita income have doubled between 2002 and 2007 growing at six to seven percent per year. How this has been achieved confounds the policy makers who, evidently, cannot do simple arithmetic. If GDP was, for the sake of argument, one hundred in 2002, growing at seven percent per year it would be one hundred and seven in 2003, one hundred and

¹²⁷ Ishrat Hussain, *Pakistan: The Economy of an Elitist State*, 35.

fifteen in 2004, one hundred and twenty-three in 2005, one hundred and thirty one in 2006, and one hundred and forty in 2007. Several Pakistani representatives abroad who questioned the data they were being asked to sell as the authentic official figures to foreign governments and investors found that senior financial managers were at a loss to explain the doubling of GDP in five years. One asserted that the government was factoring inflation into the growth rate, which would mean that if Pakistan had an inflation rate of one hundred percent its economy would double every year. Another explanation was that the depreciation of the rupee was being factored in which was interesting given that Pakistan's currency has been more or less stable at sixty rupees to the US dollar for the past five years. With the regime engaging almost four billion dollars of external debt every year, of which fifteen billion dollars were received between 2003 and 2007 and an additional ten to fifteen billion on the cards for the next five years, Pakistan's macroeconomic stability is an illusion not backed up by the increased ability of the state to generate revenues from its domestic resources.

6.6 Lax Republica

A member of the 1992 Economy Commission had warned of the growing "similarities" between the financial administration of the Timurid Empire under Aurungzeb and his successors and the State of Pakistan.¹²⁸ The first was the insufficiency of revenues relative to the needs of the state due to "the unwillingness or the inability" of the state" to collect taxes more effectively and efficiently.¹²⁹ The second was the unsustainable increase in wasteful expenditure "merely to create an effect of grandeur",

¹²⁸ Zafar Iqbal Rathore, Rathore Papers, "State and Economy", Note submitted to the 1992 Economy Commission, March 1992, Islamabad, 9.

¹²⁹ Ibid.

not very successfully, one might add.¹³⁰ The third was the absence of "financial discipline by either avoiding or disregarding institutional scrutiny of proposed expenditure."¹³¹ The fourth was the increase in the number of state employees even as the state's capacity to pay them wages commensurate with their responsibilities and discretionary powers declined.¹³² Finally, the breakdown in internal discipline due to "continuous arbitrariness" and the slackening of "accountability" and "scrutiny" resulted in "a large number of state employees living off the land and in many cases making more money through corruption than their salaries."¹³³

The persistent inability of a state to raise enough tax revenue to meet its expenses when domestic resources are sufficient is cause for serious concern. The cavalier treatment of the financial administration by successive regimes has contributed to and sustained a permanent fiscal crisis. Due to greater concern with spending money than raising money to spend, expenditures have soared above revenues with the difference made good through domestic and external borrowing or outright theft and confiscation of liquid and productive assets held by Pakistani nationals. During periods of intimacy with the United States the payments for services rendered and expected, offset the fiscal crisis and cause the limited reserves of political and administrative will to reform to evaporate altogether. As an outmoded early-twentieth century financial administration limped along a highly regressive course, the quality of its personnel, organization, and culture steadily deteriorated while its effectiveness relative to other post-colonial states declined and continues to do so. Treated as a medieval instrument by the rulers it behaves arbitrarily

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² Ibid.

¹³³ Ibid., 10.

and malevolently towards the ruled living off the land in a predatory manner. Citizens respond through flight, concealment, misdirection, and collusion with the numerous corrupt elements. Of these citizens, the rural masses are left to fend for themselves and, after the devolution plan introduced by the Musharraf regime in 2001, are now completely at the mercy of local landlords while the apparatus caters to the interests and fantasies of the Anglophone elite. This elite has become so accustomed to its role as a ridiculed and undignified supplicant abroad and a callous, effete, and whimsical caricature of a ruling class at home that it lacks the resolve and perhaps even the ability to stand on its own two feet. The most ubiquitous characteristic in this elite's exercise of power is its proprietorial attitude towards the state and the tendency to treat it in the manner of the Grand Seigneur.

CHAPTER SEVEN

GRAND SEIGNEURS

7.1 Sovereign-Proprietors

The rulers of continental bureaucratic empires, great and small, were sovereign-proprietors and effectively owned the lands, peoples, and instruments of power under their command.¹ Their servants received an inferior right of possession over a portion of the ruler's wealth in the form of lands, rents, and salaries. Local notables would be confirmed by the apparatus which retained the right to intervene in their internal disputes and politics if they militated towards overt defiance. In some cases, such as that of the Rajputs in the Timurid Empire, local notables may have been assimilated into the official hierarchy. As for the ordinary cultivators and artisans the output of their labor was at the mercy of the apparatus either directly in the form of the emperor or indirectly in the form of his slaves, servants, and favorites. While in Old Regime France, Louis XIV boldly overrode feudal prerogative and aristocratic privilege and declared "that all the lands in the kingdom had been originally leased on terms by the state which thus remained the

¹ On November 27, 1900, while on campaign in China, Major Amar Singh of the Jaipur State forces received "the shocking news that the Jaipore Durbar had confiscated the three jagirs, leaving barely anything at all" for his clan of Kanota Rajputs. The British intervened on his behalf as the premier of Jaipur, Babu Kanti Chander Mookerjee disliked the Kanotas was pursuing a vendetta against them. It was only after Mookerjee died in February 1901 that the dispute, which had dragged on for many years, came to an end. Amar Singh, *Reversing the Gaze: Amar Singh's Diary, A Colonial Subject's Narrative of Imperial India*, Susanne H. Rudolph, Lloyd I. Rudolph and Mohan Singh Kanota, eds (Boulder, Colorado: Westview Press, 2002), 133-50. The Rajput nobles dared not speak out, unless they had British support, against such arbitrary treatment "for fear of the state officials" who were by and large Brahmans, Banias, and Kashmiris from outside the Rajputana. In Jaipur "not a single Rajput" aristocrat held a high administrative post. *Ibid.*, 428. Thus, the princely states preserved the pre-British practices and norms including the sovereign-proprietorial exercise of power and were far more arbitrary than the directly administered territories (British India).

sole real owner",² the Timurid Empire with four and a half million square kilometers of varied territory, a hundred million subjects and two hundred million rupees of average annual revenues was "the property of one man, the emperor."³ Almost two millennia earlier Megasthenes, a Greek ambassador to the Mauryan court, found that the sovereign was the proprietor of his empire which was in effect an imperial estate.

The proprietorial nature of sovereign power in continental bureaucratic empires meant that the servants of imperial rule were highly insecure in their possession of lands, rents, and salaries. Dependent on the caprices of an arbitrary master for the preservation of their wealth, dignity, status, and even titles, the servants tried to steal and cheat their employer out of his wealth as much as possible. Kautilya found that just as it was "impossible to know when a fish moving in water is drinking it, so it is impossible to find out when government servants in charge of undertakings misappropriate money."⁴ The sovereign-proprietorial state was to its servants like "honey or poison that one may find at the tip of one's tongue" and it was "impossible" for the official "not to take, at least a little bit, of the King's wealth."⁵ It was easier to understand and predict "the paths of birds flying in the sky" than it was to investigate "government servants who hide their income."⁶ The universal insecurity felt by the servants of the sovereign-proprietor meant that they found ways to try and take as much as they could out of the royal wealth that came into their hands and live ostentatiously while they could. From the ruler's perspective such activities increased his powers over his subordinates so long as he was

² Alexis de Tocqueville, *The Old Regime and the Revolution*, trans. Alan S. Kahan, eds., François Furet and Françoise Mélonio (Chicago: University of Chicago Press, 1998), 231.

³ Eraly, *The Mughal World*, 42.

⁴ Kautilya, *The Arthashastra*, trans. L. N. Rangarajan, 282.

⁵ Ibid.

⁶ Ibid., 283.

able to punish enough of his servants to keep most from undermining the stability of his rule. Spies and informers were necessary so that the ruler may know who was taking what and how and this knowledge could be used to blackmail officers into doing the royal bidding. Corruption to the ruler was the pilferage or wastage of imperial wealth by his servants. As for the ruler, he may be guilty of oppression, injustice, or harshness but he could hardly be accused of stealing from himself. Understandably, the ruler did get upset if subordinates usurped imperial authority or took excessive advantage of structural flaws. The remedy was extraordinary personal exertion to punish those who stole more than the ruler was willing to tolerate.

Akbar was particularly incensed when he learnt that the *qazis* in the ecclesiastical department responsible for grants of land, scholarships, and inquisitions, were, like many of the officials in the other departments "in the habit of taking bribes from the grant-holders" or stealing the funds and lands put at their disposal by the emperor.⁷ The emperor denounced "these men, who wear a turban as a sign of respectability, but are bad at heart, and who wear long sleeves, but fall short in sense."⁸ Akbar ordered the dismissal of most of the serving *qazis*, had Persian and Turkish women who colluded with the clerics to steal from the emperor and acquire tax-free lands under false pretences convicted of fraud, and ordered inquiries into all grants of over one hundred *bighas* (subsistence units of land).⁹ Senior ecclesiasts were forbidden on pain of imprisonment and dismissal from making any grants of more than fifteen *bighas* without imperial approval.¹⁰ The emperor was equally offended by the manner in which those grants of

⁷ Abul Fazl Allami, *A'in-I Akbari*, trans. H. Blochmann, 252.

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ *Ibid.*

land which had been converted into gardens and orchards and so generated profits were subjected to "the greediness of Government officers" and extortion.¹¹ Akbar personally intervened and "commanded that such profits should not be interfered with" by officials unless they wished to make enemies of their master.¹² When it was found that the grant-holders were guilty of bribery and collusion with officials in order to get a better deal for themselves the emperor ordered them brought before him so that he may administer justice in such cases directly.¹³ The emperor, "with the view of teaching wisdom and promoting true piety" took keen interest in the personnel management of the ecclesiastical department and personally appointed ecclesiasts who struck him as "disinterested" at the central and district levels.¹⁴ Between 1578 and 1605, the period in which Akbar exercised direct personal supervision of the ecclesiastical affairs "there is only once case of irregularity" concerning the "charge of corruption and bribery" against the head of province of Gujrat's religious establishment.¹⁵ The accused "was tried, found guilty, and imprisoned."¹⁶ The continuous personal effort required to make examples and prevent things from getting out of hand meant that whereas a Chandragupta Maurya or Akbar could manage the tour de force, less competent rulers would rapidly find themselves isolated, surrounded by sycophants, and end up allowing their servants to carve out petty estates of their own resulting in loss of control and the breakup of the empire.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibn Hasan, *The Central Structure of the Mughal Empire*, 269.

¹⁶ Ibid.

There also existed a number of structural parallels between the states of the subcontinent and the English East India Company that ultimately displaced many of them in the mid-eighteenth century. The first parallel was that the corporation, like the continental bureaucratic empire, was dominated by "the drive for monopoly control".¹⁷ For the former this implied the ability to control the market through horizontal as well as vertical consolidation. For the latter monopoly control meant the absolute power of the sovereign over the territory, wealth, and status of his servants and through them over the country at large. Neither liked competition and possessed a totalitarian outlook. This drive for corporate or imperial monopoly over profits and power, or power and profits, was balanced by the speculative propensities of officials, investors, and other associates.¹⁸ It was as difficult for the corporation to regulate its employees physically removed from the headquarters as it was for sovereign-proprietors to supervise their distant subordinates. Within headquarters or in the imperial palace intrigue and conspiracy clouded the atmosphere and made it harder to relate decisions and policies to ground realities. All the way up and down the chain of command the tendency was for corporate employees and imperial servants to report things as fine lest the shareholders or the emperor and his advisers get upset. The third similarity was that neither the corporation nor the continental bureaucratic empire possessed an automatic remedy for abuse and thus generally failed to attain stability.¹⁹

Against these similarities there were several great differences as well in terms of motivation, structures, and objectives. Statecraft was a divinely inspired pursuit and the

¹⁷ Nick Roberts, *The Corporation that Changed the World: How the East India Company Shaped the Modern Multinational* (Hyderabad: Orient Longman Limited, 2006), 35.

¹⁸ Ibid.

¹⁹ Ibid.

apparatus of empire saw itself not as a business venture but as a great and virtuous enterprise well worth sacrificing life for. In terms of structure the continental bureaucratic empire was organized so as to provide public services such as order, justice, infrastructure, defense, charity, humanitarian assistance, which were not profit generating ventures. Governance of a state meant balancing land, people, power, wealth, culture and imperial idiosyncrasies, against the generation of revenue required to sustain the process. It was an immeasurably more difficult and exhausting task than selling fabrics or buying tea. The differences in motivation and structure translated in different objectives. The corporation had a single objective in the generation of sufficient profits to sustain the appreciation of its own stock value. The state had many different objectives and required a tremendous amount of energy and vision upon the part of the ruler and the administrative elite to give coherence to it.

After the conquest of Bengal in 1757, the East India Company went berserk in its pursuit of profits for its shareholders. It was also polarized between the "Bengal Squad" led by Clive and their opponents led by Laurence Sullivan leading to "Civil war...among the shareholders."²⁰ Each side created artificial stockholders to win more votes with Clive spending a substantial portion of his ill-gotten wealth on purchasing over two hundred votes while Sullivan managed to muster a hundred and sixty. In the numbers game Clive and his supporters won and by 1764 were in full control. Their objective was that of all private corporations, increase share value by any means necessary. Clive resorted to insider trading to fuel increases in the stock value and through a "tiny group of 60 executives simply engrossed the whole of the inland trade, excluding not just Asian

²⁰ Ibid., 84.

merchants, but also junior executives and independent European traders."²¹ Thanks to these devices the share price rose from one hundred and twelve pounds sterling in 1762 to two hundred and twenty three pounds sterling by 1766 and the following year the Company agreed to pay the authorities at home four hundred thousand pounds a year in exchange for freedom to operate as it deemed fit. Though the Company's own officials, such as Hastings, admitted that their profit-driven governance was ruining the country they just could not stop until a combination of meteorological and management disasters between 1769 and 1771 brought both Bengal and the Company to its knees between 1769 and 1771. A million two hundred thousand may have perished in the famine of 1769-1770²² while the Company responded by actually *increasing* the revenue rates. Share prices tumbled and by 1773 the Company ended up with liabilities almost twice the value of its assets. It needed a loan to save itself but by now the popular mood and government hostility were such that it would come only with strings attached.

These conditions paved the way for the projection of the core organizing principle of the British State of Laws, that the state was not the personal estate of the ruler, into the administration of its Indian territories. Successive governors-general cracked down upon patronage, bribery, and the privatization of public functions and enforced separation of the corporate and governmental aspects of the British Indian state. By 1813, the Company had effectively lost its monopoly and, a generation later, its trading activities were further curtailed. The combination of executive vigilance, competitive recruitment, and the abolition of sovereign-proprietorship brought about a substantial shift in the

²¹ Ibid., 86.

²² Rajat Datta, *Society, Economy and the Market: Commercialisation in Rural Bengal c. 1760-1800* (New Delhi: Manohar, 2000), 264.

culture of power of the administrative elite and to a fair extent the Indianized middle-order.

For instance, the taking of bribes by senior officials was a fact of life in 1770 with Clive and Hastings setting the standard for gift-taking, bribery and forgery. It was a matter of some embarrassment by 1800, a serious danger to career and reputation by 1830, and a freak occurrence by 1860. This was not because the British officers had become innately moral men in the course of a couple of generations but because of the changes in the incentive structure and discipline, thus explained A. Hamilton on November 19, 1813:

The probity of persons whose decisions affect the lives and fortunes of the natives, in a station remote from the presidency, is exposed to strong temptations. It may be useful to enumerate the restraints which, in such a case, are likely to operate on the mind of a Company's servant and of a native Commissioner. A detection in judicial corruption exposes the former to the loss of a large salary in possession, he sees all his prospects in life vanish, the influence of his family which procures him the nomination to the service, the sums expended in a liberal education for a particular education, the many years he has spent in acquiring experience and languages, now no longer available, all are sacrificed. He has to begin the world again, but with a ruined character; and the eminence in which he once stood he can never hope to regain. On the other hand, the salary of the native Commissioner is trifling. If the bribe is accepted, he trusts to his address to escape discovery; but should the worst happen, and he lose his office, the sum he has received is equivalent to many years purchase of his former salary. His family and friends are far from considering him in the light of a degraded person, and he resumes his former habits, without experiencing any other mortification than that of discovering that his address was unequal to the occasion.²³

In other words, the combination of good pay, prestige, high qualifications, and reasonable certainty of discovery in the event of wrongdoing, security of service during good behavior, and freedom from presumptive suspicion and arbitrary interference, was what made the senior British officials relatively honest. Moreover, if they seriously

²³ *Selection of Papers from the Records at the East India House Relating to the Revenue, Police and Civil and Criminal Justice under the Company's Governments in India*, Vol II, 17.

transgressed, senior officials could not count on their colleagues to bail them out. John Lawrence, writing on July 16, 1853, admonished a colleague found taking a bribe that "It is useless my trying to help you. There is no remedy for the error you have committed other than to bear the penalty and express your contrition."²⁴

The British achievement was that at the level of principle the sovereign-proprietorial mode of governance was dead. Public property and private property both existed under laws enforced by the corruption-free executive elite headed by the ICS and adjudicated upon by a superior judiciary that enjoyed tremendous prestige. The officers were servants of the law not the personal appointees of the sovereign. The bureaucratic middle order was substantially honest although here it was often more out of fear of their superior officers who possessed considerable disciplinary powers over them. At the lower levels the habitually corrupt were perhaps a third of the total while another fifth was opportunistically corrupt using their official positions to extract the means of livelihood. In the countryside as well as in the cities, it was not considered wrong to tip low-level functionaries or provide a helpful constable with a good meal. In the engineering service and public works department, contractors and engineers received commissions set at less than ten percent of the total contract value. What mattered was that the corruption that did take place did not constitute a serious threat to the survival of the state and was not of concern at the policy-making and senior executive or judicial levels. Even under the pressure of the Second World War, the British did not relax financial controls and

²⁴ Bosworth Smith, *Life of Lord Lawrence*, 408.

disciplines and constituted anti-corruption departments tied to the Special Branch of the Indian Police.²⁵

The British administrative elite "were men notable for high intellectual status" possessed great capacity for leadership and management and "enjoyed a high reputation for personal morality" and probity in the conduct of public affairs.²⁶ By extending the principles of pay, prestige, accountability, and *esprit de corps* the British had during their final seventy years of rule established institutions staffed primarily by Indians and in so doing transmitted a substantial portion of their idiosyncratic state morality.²⁷ And yet, it seemed that a decade after the British withdrawal from the subcontinent corruption had infected every segment of the apparatus even at the senior levels even though "In the period of British rule" the AIS in general and ICS in particular were almost completely free from this disease.²⁸ The challenge for the leaders of free India and Pakistan was to extend the application of the principles of the British-era reforms to the lower tiers of the state apparatus and improve the investigative and disciplinary functions of the apparatus. Instead, they proceeded to treat the state as a vast personal estate and headed back, some unconsciously, others consciously, to the pre-Enlightenment sovereign-proprietor configuration.

7.2 Partisans

Corruption is a social activity. In an administrative state it is not possible for the rulers be they elected politicians or military dictators to engage in the privatization of

²⁵ The distorting effects of the war were felt primarily in the form of war-profiteering, some thing that also took place in Britain on a larger scale and inflation eating into the purchasing power of the millions of additional employees hired by the government in railways and war industries.

²⁶ *Report of the Pay and Services Commission, 1959-1962*, 11.

²⁷ *Ibid.*

²⁸ *Ibid.*, 18.

public funds and assets, the violation of laws and procedures, and the arbitrary use of power without the collaboration of a large number of civil servants, subordinate officials, or military and intelligence personnel. Under the British imperial nomocracy the freakishly divergent culture of power of the administrative elite meant that the incentives and pressures for the unlawful and proprietorial tendencies inherent in continental bureaucratic empires were steadily rolled back. In a very important sense the culture of power of the British Indian state was an alien imposition and imported restraint on the sovereign-proprietorial instincts of the Indian subjects.

The effects of these instincts were already in evidence between 1919 and 1947 when the representative principle was introduced at the provincial and national levels. Suhrawardy, as the premier of Bengal before partition "would receive [even] the most respectable man be he a merchant" or civil servants while "lying on his bed with his legs out-stretched and people seeing him in his bed room had to talk to him standing by his side."²⁹ Khwaja Nazimuddin, the Adamjees, and Dawoods, among others, were subjected to the same humiliation.³⁰ Once the supplicant had approached the premier's bed Suhrawardy would "show his authority by shouting at people" or then address them in "a bantering tone."³¹ When out of power Suhrawardy rediscovered his polite manners and social graces and courted those who could get him back into a position of authority.³² Fazlul Haq, another luminary of the freedom struggle and Pakistan movements who served as governor of East Pakistan from March 1956 to April 1958, used to sign all applications brought before him and thought it good to give people "spontaneous pleasure

²⁹ National Documentation Centre, Islamabad, Folder Eight. 1950, File No. 2(1)-PMS/50, Government of Pakistan, Prime Minister's Secretariat, "Correspondence with the Governor, East Bengal", 189.

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

even if it was temporary.”³³ He also defended his choice of mediocre, corrupt, and non-serious colleagues as ministers on the grounds that such people were the “true representatives” of the masses in terms of their intellectual aptitude and understanding of state morality.³⁴

In West Pakistan, in April 1950, a bench of the Lahore High Court found that the former chief minister, the Nawab of Mamdot, was guilty of corruption, abuse of power, and obstruction of justice. Mamdot had obtained on September 20, 1947, for himself nearly nineteen hundred acres of land in the Montgomery district out of evacuee property.³⁵ He was also found guilty of having “conspired with Raja Hassan Akhter, PCS” through whom he “had obtained the allotment, to destroy the evidence.”³⁶ On January 25, 1949, Mamdot had put his “signature to a very good report relating to Raja Hassan Akhter”, though he knew “of the irregularities committed” by the officer in question.³⁷ Moreover, these favorable remarks on the personal files of administrative collaborators such as Raja Hassan Akhter and Khwaja Abdur Rahim (PAS/CSP) were made immediately *after* Mamdot’s dismissal though the files carried earlier dates. January 19, 20, and 23.³⁸ Mamdot’s objective was to protect his partisans from the governor and other civil servants angered by his unlawful and arbitrary conduct.³⁹

The “root-cause of all corruption” represented by the combination of abuse of power and privatization of state resources in the subcontinent was the region’s “arbitrary

³³ Jilani, *Fifteen Governors I Served With*, 48.

³⁴ *Ibid.*, 49.

³⁵ National Documentation Centre, Islamabad, Folder Eight. 1950, File 2(2)-PMS/50, Government of Pakistan, Prime Minister’s Secretariat, “Correspondence with the Governor Punjab”, 288.

³⁶ *Ibid.*, 289.

³⁷ *Ibid.*, 291.

³⁸ *Ibid.*, 292.

³⁹ *Ibid.*

culture of power" formed over millennia of anarchy and despotism.⁴⁰ In the subcontinent the wielders of power perceived it as "a personal acquisition and prerogative" while those subjected to its exercise saw power "as residing in the person of high officials" and not in such artificial trivialities as laws, procedures, or the constitution.⁴¹ If the rulers so wished they could override the law and do as they pleased and it was only when they did not want to do something that legal or constitutional propriety were invoked. The rulers sought arbitrary power while the people wanted this power to be used to advance their own personal or sectional interests. Leadership was based on a combination of force, deception, and charisma, and it sought to use the instruments of state power to perpetuate personal rule.⁴² After 1947, the British-era veneer wore off and the rulers as well as the ruled regressed "to the original structure" of the subcontinent's "group mind and group behavior."⁴³ Partition and the disposal of evacuee property in land and capital facilitated this regression.

On March 10, 1949, A. M. Khan Leghari, the Punjab's secretary for refugees and rehabilitation, warned all the commissioners that the governor was "deeply concerned over the difficult question of wrong allocation of Evacuee Property."⁴⁴ A very large number of "Locals" were passing themselves off as refugees "for securing evacuee property."⁴⁵ Refugee status was a much sought after commodity as locals were prohibited from occupying evacuee property.⁴⁶ Many non-Punjabis settled in the province were presenting themselves, often armed with forged papers and false testimonials, as migrants

⁴⁰ "Report of the Committee on the Study of Corruption, 1986", 76.

⁴¹ *Ibid.*

⁴² *Ibid.*, 78.

⁴³ *Ibid.*, 84.

⁴⁴ 1949, File No. 20/CF/49, Government of Pakistan, Cabinet Secretariat, Cabinet Branch, No. 2300-Reh.-49/1676, "Policy Regarding Allotment of Evacuee Property", 1.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*, 16.

or members of the landed gentry who were now cut off from their lands in India.⁴⁷ Some simply occupied properties at will, moving into vacant houses, grabbing plots of land, and taking advantage of the chaos to reinvent themselves.⁴⁸ Tragically, senior government officials were also involved in this process of creative genealogical rewriting and asserting that they had left behind properties in India.⁴⁹ A 1954 inquiry by the Special Police Establishment (SPE) reported that "about 50 building sites which were evacuee properties had been acquired in Karachi by Government Servants, some of them of very senior status."⁵⁰ The SPE observed that "it was common talk in Karachi" and in the rest of the country that senior officials had used their administrative powers and connections to acquire evacuee properties "when they had left no property in India" and help their relatives and clients do so as well.⁵¹ Some of the plots acquired were "of considerable value" and many of the officers engaged in the appropriation of state property were doing so in contradiction of "the declarations filed by them on solemn affirmation" that "they abandoned no immovable property in India" with absolute impunity.⁵²

The central government's seizure of Karachi and its refusal to compensate the Sindh provincial authorities for the loss of their properties was itself in direct violation of British-era rules that categorically required the state to compensate any private or public institution or individual in exchange for the acquisition of their property. Having unlawfully seized Karachi, the central government ministers had taken it upon themselves to carry out personal inspections of its environs, receive deputations, and interfere at will

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid., No. 108/CW/54, Karachi, December 20, 1954, "Allotment of Evacuee Plots in Karachi to Government Servants", 1.

⁵¹ Ibid.

⁵² Ibid.

with the administration of the city.⁵³ The ministers thought that their task was to personally intervene, in the manner of Timurid potentates, to remedy abuses brought to their notice by aggrieved residents.⁵⁴ The Administrative Enquiry Committee advised that ministers should concern themselves with more serious issues relating to excessive government expenditures in the absence of sufficient tax revenues and framing laws and policies to ensure the autonomous and transparent operation of the growing number of departments, and stop interfering in the routine affairs of the administration. It warned, for instance, that "the leakage of revenue under the main heads like customs, excise and income-tax" was already in the range of fifteen to twenty per cent and needed to be urgently redressed if the increases in government spending on development were to be sustained without heavy borrowing.⁵⁵ It was in the politicians' own best interest to "impose a self-denying ordinance" so that they could cease direct interference in the administration and simply inform those who came to them that they did not have any lawful power to get things done for them.⁵⁶ If administrative autonomy was allowed to take root "the public and all concerned" would be the winners in the long-run and the ministers could take credit for the improved efficiency.⁵⁷ As the complexity and numerical strength of the administrative apparatus grew the subjective, personalized, and proprietorial attitude of the ruling elite boded ill for the ability of the state to maintain internal discipline.

⁵³ *Report of the Administrative Enquiry Committee* (Karachi: Government of Pakistan Press, 1953), 18. Its members were the Establishment Secretary, T. B. Creagh Coen, the Finance Secretary, Mumtaz Husain, and the Joint Secretary Establishment, E. A. Franklin.

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*, 43.

⁵⁶ *Ibid.*, 18.

⁵⁷ *Ibid.*

Undaunted by these prognostications, the elected representatives continued interfering with the result that by July 1956, the Karachi Municipal Corporation "was in very bad shape."⁵⁸ In addition to "several cases of embezzlement" the corporation's cashier had run away"and official documents were being deliberately destroyed."⁵⁹ A major corruption scandal involving the faulty construction of thousands of quarters for refugees in the Malir and Landhi areas of Karachi had simultaneously rocked the city.⁶⁰ The concerned minister took note of the complaints and launched a personal initiative leading to the formation of an enquiry committee.⁶¹ After the committee had deliberated action was taken against those suspected of involvement.⁶² On August 6, 1956, it was reported that two executive engineers, seven assistant engineers, and twelve overseers had been charged while the contractors were blacklisted and had paid eight hundred thousand rupees in damages.⁶³ The government then allocated an additional one million rupees for construction of the quarters along improved lines.⁶⁴ During this episode the "Secretary, Ministry of Refugees and Rehabilitation was ignoring his Minister and policy directives", was "not loyal to his Minister and was encouraging a controversy in the press."⁶⁵ Of course, it was not possible for a commission of enquiry to be set up every

⁵⁸ 1956, File No. 314/CF/56, Government of Pakistan, Cabinet Secretariat, Cabinet Branch, Cabinet Meeting, July 11, 1956, Case No. 590/37/56, "Administration of the Karachi Municipal Corporation", 2.

⁵⁹ Ibid.

⁶⁰ 1956, File No. 192/CF/56, Government of Pakistan, Cabinet Secretariat, Cabinet Branch, "Report of the Enquiry Committee set up by the Government to Examine Defective Construction of Quarters in the Refugees Colonies in Karachi", 1.

⁶¹ Ibid., 4.

⁶² Ibid.

⁶³ Ibid., No. F.3(17)/55-R.III, Government of Pakistan, Ministry of Refugees and Rehabilitation, Karachi, August 6, 1956, 1.

⁶⁴ Ibid.

⁶⁵ 1956, File No. 299/CF/56, Government of Pakistan, Cabinet Secretariat, Cabinet Branch, Cabinet Meeting, July 5, 1956 Case No. 573/36/56, "Action against the Secretary, Ministry of Refugees and Rehabilitation", 2.

time a scandal occurred and routine and departmental accountability had to be given priority over such extraordinary and politically motivated interventions.

Against this backdrop of ministerial interference and slackening intra-administrative accountability, officials "were plunging too deeply into house building activities" having received in many cases allotments of plots of land from the state.⁶⁶ Some of the officials had "embarrassed themselves by building houses beyond their means."⁶⁷ The special provision of allowances to officers meant that they could avail of themselves considerably greater sums than the ten thousand rupees borrowing limit of the House Building Finance Corporation that ordinary citizens were allowed.⁶⁸ Given that at the time ten thousand rupees was a small fortune and the prices of land, construction materials, and house rents, were well within the means of officers on their regular salaries such practices represented the triumph of greed over need. It was a matter of some concern than within a few years of independence Pakistan's civil and military officers had perfected and institutionalized the mechanism through which state lands and resources could be privatized even as their salaries were reduced. The state would acquire land or sell off its own land at below market rates to its civil and military officers. Loans and advances would then be offered to develop these properties without there being any bar on the ability of officers to acquire multiple plots over a period of time. While the civil and military officers acquired an developed an appetite for landed wealth their political masters took to living off the land. While on tour ministers expected to be

⁶⁶ 1949, File No. 317/CF/49, Government of Pakistan, Cabinet Division, Note by T. B. Creagh Coen, Chairman Administrative Enquiry Committee, April 1953, 2.

⁶⁷ Ibid.

⁶⁸ Ibid.

lavishly entertained ignoring instructions to the contrary.⁶⁹ Ministerial ostentation was infectious and the files of the period are at times consumed by alarm over lavish expenditures on gifts, ceremonial occasions, dinner receptions, and outdoors entertainments by officers and attempted without success to reverse the trend.⁷⁰

Equally worrisome was the association of public representatives with private concerns, business houses, and industrialists who created multiple conflicts of interests and brought the state into disrepute. This was hardly surprising given the hundreds of industrial units handed over to businessmen out of evacuee property. Rising development expenditure and industrial development projects undertaken by the industrial development corporation increased that impression. The 1949 Development of Industries (Federal Control) Act, for instance, established the central government's patronage over the cement, coal, electrical goods, power generation, glass, ceramics, textiles, steel, machine tools, telephone, paper, leather, tobacco, and fishing industries. It was therefore perfectly understandable that businessmen identified material success not with the actual profitability of their companies or the quality of their entrepreneurship and management but with proximity to the politicians and bureaucrats in control of the levers of patronage.

In order to cultivate politicians and bureaucrats, a number of inducements were offered. Marriage alliances, post-retirement employment of officials in senior positions, jobs for the children of bureaucrats and political leaders, shares in the company, and membership of governing bodies and boards of directors, were just some of the inducements offered. Businessmen would go to great lengths to create and sustain the impression that they were under the protection and favor of Pakistan's sovereign-

⁶⁹ Ibid., "Public Entertainment for Hon'ble Ministers when on Tour", 1.

⁷⁰ Ibid., Notification No. 4/12/49-SE.II-July 11, 1951, 1.

proprietors. By August 1950, the attempts of private companies to secure, or appear to have secured, state patronage were causing some embarrassment. It was vital, felt senior mandarins, to stop private companies from using terms such as "Jinnah", "Quaid-i-Azam", and "Dominion" in their letterheads and advertisements lest "the use of these words" be "misconstrued to denote the patronage of the Quaid-i-Azam or any connection with the Government of Pakistan."⁷¹ It was also proposed that companies be prohibited "from exercising undue influence" by publicly brandishing "the names of distinguished shareholders."⁷² Eventually, the state gave up trying to enforce such an unpopular, and unprofitable, distinction and deemed that there would "be no bar to a Minister holding shares in Company or to being a sleeping Partner in a Company or his serving as a Director ex-officio, on behalf of Government on the Board of Directors of any Company in which Government had invested money."⁷³ To make matters worse, ministers and public representatives at all levels engaged in collusion with smugglers, grain hoarders, and even dacoits. In Sindh the members of the provincial assembly from Thar Parkar district along with "Police and Government Officials" were staging dacoities to compel locals to hand over their stores of grain.⁷⁴ The provincial authorities also took full advantage of Liaquat Ali Khan's Safety Act to silence the opposition through arrests and intimidation.⁷⁵ Even former ministers "were arrested under the Safety Act" which

⁷¹ 1949, File No. 10/CF/49, Government of Pakistan, Coordination Branch, P.U.C. D.O. Letter No. 365/337, August 10, 1950, Secretary Commerce and Education to Secretary-General, 1.

⁷² Ibid.

⁷³ Ibid., Cabinet Meeting, January 7, 1955, Case No. 28/2/55, "Association of Central or Provincial Ministers with Private Concerns", 1.

⁷⁴ National Documentation Centre, Islamabad, Folder Three. 1948, File No. 7(2)-PMS/48, Government of Pakistan, Cabinet Secretariat, Prime Minister's Secretariat Karachi Branch, "Correspondence with the Premier, Sind", 285-286.

⁷⁵ 1954, File No. 245/CF/54, Government of Pakistan, Cabinet Secretariat, Main Cabinet Branch, Cabinet Meeting, December 15, 1954, Case No. 1012/104/54, "Victimization of the Members of the Opposition by the Present Sind Ministry", 1.

indicated that the authorities did not have sufficient grounds for arrest under the ordinary criminal laws.⁷⁶ The political nature of the charges was apparent when the prime minister urged the Sindh chief minister to withdraw "the cases against Talpur and others" and abstain from the "victimization of officers."⁷⁷

In their desire to get reelected politicians rode roughshod over democratic and legal norms. The initial enthusiasm felt at the introduction of universal suffrage in 1951 rapidly gave way to "frustration and despondency" as "malpractice perpetrated and underhand tactics used" came to light.⁷⁸ Ruling-party candidates tampered with electoral rolls, carved out "pocket constituencies", stuffed votes, obstructed opposition candidates, and kidnapped and intimidated rivals with the support of the administrative machinery.⁷⁹ The Lahore High Court Bar Association testified that at least fifty Punjab provincial assembly members were elected due to the illegal intervention of the official machinery on their behalf.⁸⁰ The election tribunals, administrative staff, and official machinery were all under the control of the party in power and inspired little confidence.⁸¹ Such arbitrary acts in violation of the law made the politicians dependent on the administrative machinery rather than their popularity to secure election. By favoring corrupt subordinates and undermining their own popular legitimacy, the politicians presided over the liquidation of their own authority and facilitated the rise of the governing corporation.

The politicians may have opened the doors to the sovereign-proprietorial mode of governance but it was their partisans, and later masters, in the mandarin and military

⁷⁶ Ibid.

⁷⁷ Ibid., Cabinet Meeting, April 11, 1955, Case No. 219/27/55 "Withdrawal of Cases against Mr. Talpur and Others", 1.

⁷⁸ *Report of the Electoral Reform Commission, 1956* (Karachi: Government of Pakistan Press, 1956), 1.

⁷⁹ Ibid.

⁸⁰ Ibid., 6.

⁸¹ Ibid., 5.

castes that benefited the most. While the politicians visibly and highly unintelligently acted in a corrupt, acquisitive, and power-hungry manner singularly motivated by the desire to be reelected at any cost, the permanent employees set about a more systematic privatization of state resources. This was accomplished scientifically and quietly through house building schemes, special allotments of lands, assumption of policy-making and policy manipulation, prioritization of infrastructure development activities towards lands in which they had investments to push up the market value thereof, and the passage of laws and regulations that provided legal cover to their theft of state resources. The impression created that the politicians were more corrupt while the bureaucrats and military officers were relatively clean helped the governing corporation gain the moral ascendancy over elected representatives. This impression was at one level correct in that the fractiousness of politics, the buying and selling of votes, the use of criminal tactics to punish rivals, hoarding of essential commodities, and the politicization of the administration, were very real aspects of political corruption. That said, the governing corporation contributed to political instability, interfered in the making and breaking of parties and governments, and manipulated the political scene to serve its own interests and deflect attention from its own privatization of state resources. The governing corporation was also willing to pay a high price to its clients and stooges in the form of ministerial posts, contracts, and favors, to keep up democratic pretences and thus fuelled political corruption and the politics of patronage. Corruption was a tool that the governing corporation used to bind politicians to its will through the selective application and retrospective annulments of PRODA and through the provision of intelligence and administrative assistance to the king's party, such as Iskander Mirza and the Republicans,

in order to get their members reelected. The Pakistani ruling elite began to "look upon the state as their personal estate" and sought to operate by "spreading wide a network of patron-client relations" based on the principle that advancement in all walks of life was "possible only through the patronage of powerful patrons."⁸²

7.3 Powerful Patrons

The assumption of direct control by the governing corporation in 1958 and the purges of state employees, including eighty-four from the Class I officer rank, the crackdown on smuggling and hoarding, and the disqualification of an entire generation of Pakistan's politicians under the Electoral Bodies Disqualification Order (EBDO), did not actually diminish the growth in corruption though restrictions on the press and politics did help convey the *impression* that it had been reduced. Reflecting on the growth of corruption between 1958 and 1967, the Special Committee for the Eradication of Corruption from Services of 1967 asserted that under British rule "for almost a hundred years public services at least the upper and middle echelons were by and large honest."⁸³ Twenty years after independence, "the misuse of official power for private gain", bribery, theft of state assets, nepotism etc., were a constant nuisance.⁸⁴ Honest citizens and public servants lived "in a continuous state of displeasure and frustration" while the ranks of the corrupt were being steadily increased by the demoralization of those who saw "no purpose in swimming against a strong tide."⁸⁵ The martial law of 1958 to 1962 had secured an initial reduction in the level of corruption but the aggravated insecurity of civil servants combined with strong demand quickly translated into a situation where the

⁸² "Report of the Committee on the Study of Corruption, 1986", 94.

⁸³ *Report of the Special Committee for Eradication of Corruption from Services, 1967* (Rawalpindi: Government of Pakistan Press, 1967), 4.

⁸⁴ *Ibid.*, 3.

⁸⁵ *Ibid.*

greater risk was "covered by greater price."⁸⁶ The local government system introduced by Ayub was characterized by the buying and selling of votes and had pulled the district administration into the web of local intrigue and pressure that corrupted and politicized the services.⁸⁷ Corruption in the land revenue administration at the lower levels was out of control as district officers concentrated on development, the generous allocations for which further fuelled corruption, wastage, and inflationary pressures.⁸⁸ The Public Works Department (PWD) was now a consolidated vertical combination of corruption from the laborers and clerks "up to the Executive Engineer and often higher."⁸⁹ The police and taxation agencies were the "most corrupt" at the middle and lower levels with extortion, bribery, faulty assessments, delays in registrations of cases and complaints, and other irregularities taking a heavy toll on the ability of the state to dispense its core functions and keep a check on its elaborated activities.⁹⁰ The subordinate staff in the judiciary was "regularly paid" by litigants and even judges had started taking bribes.⁹¹ In industries, commerce, semi-government bodies, and infrastructure departments "illegal gratification" was "received at all levels" with "high officials" and lowly technical staff alike accepting bribes, doing favors, and crafting out of the body of the state their own petty estates.⁹²

The anti-corruption establishment comprising the Special Police Establishment at the center, the Directorate of Anti-Corruption in West Pakistan, the Bureau of Anti-Corruption in East Pakistan, and its provincial and district anti-corruption councils, were

⁸⁶ Ibid., 5.

⁸⁷ Ibid.

⁸⁸ Ibid., 12.

⁸⁹ Ibid., 13.

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² Ibid.

practically non-functional relative to the massive increases in expenditure and the sheer number of state employees. The intra-departmental controls had also eased significantly. Between 1948 and 1966 only three Class I officers in East Pakistan "were successfully dealt with departmentally" for corruption.⁹³ The level of intra-departmental accountability was much better in West Pakistan with seventy Class I officers disciplined for corruption between 1948 and 1966.⁹⁴ The center fared the best with one hundred and two Class I officers disciplined departmentally between 1948 and 1966.⁹⁵ While there was much left to be desired in the accountability of officers, the administrative support staff and low-paid employees of the state were also increasingly difficult to control. While in British India tipping was "glossed over as a fact of life", twenty years after independence "the rapacity of the class of inferior and subordinate officials" had "assumed a disturbing proportion."⁹⁶ The deterioration in the land revenue administration affected the largest number of people. The "acts of corruption and rapacity on the part of the *patwari* and the hierarchy up to the level of the supervisory officers like Revenue Assistant" that occurred in the rural areas were practically innumerable.⁹⁷ With a mere seventy-one Class I officers in the anti-corruption establishment in the *entire* country responsible for maintaining accountability in an officer corps numbering over five thousand and total employees over a million in the context of a twenty-five fold increase in development expenditure between 1951-1952 and 1968-1969, the contagion was spreading almost unchecked.⁹⁸ Far too many of the cases failed to uphold in court. Of the

⁹³ Ibid., 25.

⁹⁴ Ibid.

⁹⁵ Ibid.

⁹⁶ Ibid., 27.

⁹⁷ Ibid., 43.

⁹⁸ Ibid., 65.

total of twenty-three thousand six hundred and fifty-eight cases brought against government employees by the anti-corruption establishment between 1948 and 1966, only six thousand ended in convictions.⁹⁹

Convictions that did take place most often resulted in reduction in pay, transfer, suspension, or an adverse report. There were of little deterrent value given the volume of money to be made. A part of the problem was that as officers carved out estates for themselves and patronized each other and subordinates they protected those who were guilty of even heinous acts of violence such as murders and robberies as well as less brutal offenses. Given that neither the public nor officials had much regard for "police integrity" there was little chance that the anti-corruption departments staffed by police could inspire much confidence.¹⁰⁰ Since the police stations in West Pakistan got "only two rupees per annum for stationery" there was no way to operate police stations unless the officers and men, even the honest ones, lived off the land.¹⁰¹ With superintendents of police increasingly corrupt and senior ranks protecting subordinates, the middle and lower ranks were getting harder to control. The officers and subordinate ranks were, in effect, imitating their most powerful patron, Ayub Khan.

In addition to the curious increases in the fortunes of his family after he became defense minister in 1954, Ayub Khan set the personal standard for corruption and patronage. The founding of Islamabad, in 1959, opened the doors to massive institutionalized corruption that has benefited three generations of Pakistani military and civilian officials through the allotment of plots at below market prices and heavy investment in infrastructure development in the capital territory. At another level deputy

⁹⁹ Ibid

¹⁰⁰ *Report of the Pakistan Police Commission 1969-70*, 23.

¹⁰¹ Ibid., 31.

commissioners were expected to deliver basic democrat votes for the presidential elections. And then Ayub generously privatized public wealth to bind the hired clique of politicians, courtiers and ministers at his command to his will. During Zulfikar Ali Bhutto's "tenure as Minister in the Ayub Cabinet" some nine million rupees were spent out of development funds on his two thousand acre Nasrat Farm.¹⁰² Government expenditure on the sinking of private tube-wells cost two million rupees.¹⁰³ In his dealings with leading business houses, such as the Saigols, Ayub Khan would, if they required, personally approve their use of foreign exchange "on the telephone."¹⁰⁴

Paraphrasing Confucius, Ayub reflected that "Not more surely does the grass bend before the wind than the masses yield to the will of those above them."¹⁰⁵ Ayub was also fascinated by the teachings of one professor Parkinson who asserted that "In any organization" there was the "Abominable No Man" who should be bypassed in favor of the "Yes Man" who got things done.¹⁰⁶ In dealing with the elected representatives of the masses in the assemblies, Ayub found that large numbers sought audiences and began by eulogizing his services, insinuated that his advisers were not keeping him properly informed, ridiculed "their rivals and detractors" and then ended by asking for a personal favor or request.¹⁰⁷ As the political tide turned against him in 1968, Ayub complained that his generously financed "Muslim League is inactive and is not pulling its weight" leading to a political vacuum on the street which the opposition parties were filling.¹⁰⁸ In

¹⁰² *White Paper on the Performance of the Bhutto Regime*, Vol. I, Z. A. Bhutto, *His Family and Associates* (Islamabad: Printing Corporation of Pakistan, 1979), 7.

¹⁰³ *Ibid.*

¹⁰⁴ Roedad Khan, ed., *The British Papers: Secret and Confidential India-Pakistan-Bangladesh Documents 1958-1969* (Karachi: Oxford University Press, 2002), 694.

¹⁰⁵ Baxter, ed., *Diaries of Field Marshal Mohammed Ayub Khan, 1966-1972*, 5. September 6, 1966.

¹⁰⁶ *Ibid.*, 11. September 23, 1966.

¹⁰⁷ *Ibid.*, 114. July 7, 1967.

¹⁰⁸ *Ibid.*, 285. November 21, 1968.

order to bail out his clients, Ayub ordered the "administration down to the *tehsil* level" to maintain "contact with the local Muslim League leaders" and help them in any way they asked.¹⁰⁹ A month later, Ayub fumed that he was "surrounded by senior officials" who were disloyal to him and governors who were "ineffective and incapable".¹¹⁰ His advisers were sycophantic to the point of making the regime and its leader an object of ridicule by obsequiously celebrating a "Decade of Development" in the midst of widespread discontent that was boiling over onto the streets.¹¹¹ The cabinet ministers were non-entities and the king's party was inactive and ineffective and melting away in the face of opposition protests in spite of all he had done for it.¹¹²

What Ayub Khan's undergraduate debater level intellect failed to grasp was that a clique of bureaucratic yes men and political invertebrates bound to him by personal acts of generosity and patronage were the equivalent of grass in the Confucian analogy.¹¹³ Now that the wind was blowing in the opposite direction the grass would bend in that direction as was its nature. Those willing to be bought are always keen to be resold for a higher price or will renounce their earlier allegiance in exchange for the forgiveness of the ascendant ruler if he lets them quietly enjoy the fruits of their earlier collaboration. Under Ayub Khan efficiency was "synonymous with irregularity" and the yes men who produced "short term results by irregular methods" were "generally considered more competent."¹¹⁴ In order to get things done and spend the money being pumped into development, government departments and officers were actually bribing each other to

¹⁰⁹ Ibid.

¹¹⁰ Ibid., 291. December 20, 1968.

¹¹¹ Ibid.

¹¹² Ibid.

¹¹³ One of these yes men included Altaf Gauhar who, in his capacity as Ayub Khan's information secretary, was responsible for ensuring that proper respect was paid to the government.

¹¹⁴ *Report of the Special Committee for Eradication of Corruption from Services*, 1967, 14.

move things along.¹¹⁵ Ayub's basic democracies were particularly prone to having a large portion "of the money allocated for development" appropriated "by the officials and basic democrats."¹¹⁶ The "phenomenal material prosperity" achieved by the corporate sector, industrialists, and other crony-capitalists thanks to the state patronage directed their way through the bureaucracy, infected the bureaucratic medium with "the desire to try and keep pace" with the lifestyles of the entrepreneurs and managers in the private sector.¹¹⁷ By the time the governing corporation was eclipsed and elected political rule restored, corruption was a serious problem at the lower levels, a significant one in the middle ranks, and a growing cause for concern at the senior levels, especially in the development arm. Enough of the old ethos, however, remained so that the situation was neither hopeless nor beyond redemption and could be retrieved by a political leadership sufficiently enlightened to realize that by tolerating corrupt servants it would only undermine its own stability.

7.4 The Estate of Pakistan

While Bhutto was probably less personally acquisitive and certainly far more intelligent than Ayub Khan, he more than compensated by being vastly more arbitrary and contemptuous of the law. Although "a façade of democracy" was retained from 1973 to 1977, Pakistan experienced "authoritarian rule at its worst: capricious, tyrannical, Machiavellian."¹¹⁸ The government established "transcendental control over the various sections of the economy through its indiscriminate policy of 'nationalization'".¹¹⁹ In his pursuit of absolute power Bhutto undermined "the operational autonomy of almost every

¹¹⁵ Ibid., 12.

¹¹⁶ Ibid., 16.

¹¹⁷ Ibid., 14.

¹¹⁸ "Report of the Committee on the Study of Corruption, 1986", 89.

¹¹⁹ Ibid.

organ of the state" and thus "spread insecurity all around."¹²⁰ The consequences included the spiraling increase in "corruption within the government" presided over as it was by an "increasingly omnipotent, arbitrary and corrupt central authority."¹²¹ Before Bhutto, corruption was a serious problem. By the time he was overthrown, it was a way of life.

The expenditure of six million rupees of state funds on Bhutto's private residences at Karachi and Larkana, payments of some two million rupees out of the Secret Service Funds to party workers, and the illegal "import of foreign goods for personal use of the approximate value of Rs. 1.5 million" with the "evasion of customs duty and sales tax estimated at nearly Rs. 3 million" were some of the more prominent personal instances of corruption.¹²² The Z. A. Bhutto Trust was set up on October 31, 1973 and the People's Foundation Trust on August 19, 1974 to acquire assets and effectively put them at the disposal of the family. In this regard, a three thousand five hundred square yard plot valued at the market price of one thousand five hundred rupees per square yard was acquired from the Karachi Metropolitan Corporation for two hundred and thirty-five rupees per square yard with Afzal Said Khan, Bhutto's principal secretary, writing the official letters to "get the necessary details tied up."¹²³ On this plot a multi-storey building was constructed without an approved plan at the cost of twenty-five million rupees and rented out to several state-owned enterprises.¹²⁴ It appeared that the trusts were "treated as family property" and "In a fit of anger, during the enquiry" Mrs. Bhutto admitted as much.¹²⁵ While Bhutto augmented his family wealth, his associates

¹²⁰ Ibid.

¹²¹ Ibid., 89-90.

¹²² *White Paper on the Performance of the Bhutto Regime*, Vol. I, Z. A. Bhutto, *His Family and Associates*, 9-10.

¹²³ Ibid., 42.

¹²⁴ Ibid., 42-3.

¹²⁵ Ibid., 45.

and subordinates, political and administrative, feasted upon the vast estate that Pakistan was now converted into and the residual hesitations of the Ayub period vanished.

Maulana Kausar Niazi, the religious affairs minister, spent nearly two million rupees of public money on the purchase of his own books.¹²⁶ Mumtaz Bhutto, the Sindh governor, compelled the Pakistan Shipping Corporation to take "an expensive tied loan" of thirteen million US dollars against which three and a half million rupees were paid as commissions and brokerage.¹²⁷ This was accomplished "through his trusted Additional Secretary and, in the process, received full support as a collaborator from Mr. Saeed Ahmad of the Pakistan Shipping Corporation."¹²⁸ Ghulam Mustafa Khar, the Punjab governor, transferred thirty five acres of land to his brother Ghulam Meladi without any payment to the previous owner and gave one hundred and twenty-five acres to his brother Ghulam Arbi for payment of fifty-two thousand rupees.¹²⁹ Sadiq Hussain Qureshi, Punjab's chief minister, appropriated and sold one hundred and fifty-seven acres of state land for nearly one million eight hundred thousand rupees.¹³⁰ Jam Sadiq Ali in Sindh approved in his own hand one hundred and twenty-three applications for allotment of plots in Karachi meant to be auctioned and inducted one hundred and forty-five persons in the provincial Agricultural Supplies Organization "at a time when it had not even a single vacancy."¹³¹

The politicization of the administration at all levels, its insecurity aggravated by the withdrawal of statutory protection and repeated purges and arbitrary transfers

¹²⁶ Ibid., 50-51.

¹²⁷ Ibid., 56-57.

¹²⁸ Ibid.

¹²⁹ Ibid., 71-72.

¹³⁰ Ibid., 73.

¹³¹ Ibid., 78.

undermined autonomy and integrity. With remuneration levels cruelly cut by inflation and indifferent political leadership, the administration's powers were vastly increased by nationalization and repressive laws. Combined, these factors led to the breakdown of state's already precarious inner moral balance. State employees were now consciously servants of their political masters and dependent on them for patronage and support. The internal discipline eroded as politically connected subordinates attacked senior officers who gave them adverse reports, got their postings through lobbying and currying favor, and victimized their subordinates with impunity. Busy courting favor and trying to save themselves departmental heads abandoned "hierarchical supervisory inspections", collaborated in the concealment of corruption,¹³² and even stopped cooperating with the auditing process.¹³³ The anti-corruption institutions were converted into instruments of intimidation and basically sought to find complainants "ready and willing to relentlessly pursue" cases against individual officers.¹³⁴ The anti-corruption machinery, still functional though in decline in 1966, was all but incapacitated a decade later:

The Income Tax bar of Karachi was asked by a visiting Member CBR to name or identify suspect officers. The short answer given to him was to go and just have a casual survey of the Income Tax Offices, noting the cars the officers were using, the persons to whom they belonged and their life style... This yawning gap between facts widely known and facts officially known has generally created the impression that Anti-Corruption Agencies have been corruptly quieted into not seeing the facts which can readily be seen and verified and not feeling what everyone else feels. It is this incapacity of the anti-corruption agencies which has evoked the suggestion that they should be completely done away for they add to the corruption instead of reducing it.¹³⁵

¹³² *Report of the Commission on the Eradication of Corruption, 1979* (Islamabad: Government of Pakistan, 1979), 34.

¹³³ *Ibid.*, 35.

¹³⁴ *Ibid.*, 46.

¹³⁵ *Ibid.*

Insofar as the private sector was concerned, its most successful members thought corruption "useful and necessary" for the generation of profits, evasion of taxes, and quick disposal of cases.¹³⁶ Even clerics were aggressively using religion in order "to advance unjust causes and to protect ill gotten gains" such as the illegal construction of mosques and seminaries on unlawfully occupied land.¹³⁷ Over-centralization at the secretariat combined with the reluctance of junior officials to take decisions at their own levels had created powerful incentives to pay bribes in order to get things done on time as otherwise cases could be kept pending for five to ten years. The abandonment of touring by district officers led to the further loss of control over the land revenue administration and law and order. The district-level centralization at headquarters meant that people found it increasingly difficult to get access to the deputy commissioners without having to deal with corrupt intermediaries and lower staff. In the public sector corporations and nationalized industries management was haphazard and posts considered sinecures by the employees. The massive discretionary powers of officials combined with their depreciating pay made for a corrosive mixture of apathy, mediocrity, desperation, corruption, and time-serving. Amazingly, a mere forty-nine officers¹³⁸ were convicted on charges brought against them by the special police establishment between 1967 and 1978 although thousands were arbitrarily dismissed, appointed, transferred, and disciplined during the same years.¹³⁹

Even as the state degenerated into an estate the reformers asserted that "disparity between the incomes of the lowest and the highest officials militates against the

¹³⁶ Ibid., 13.

¹³⁷ Ibid., 17.

¹³⁸ Class I/Grade 17-22.

¹³⁹ *Report of the Commission on the Eradication of Corruption, 1979, 202.*

development of an egalitarian society, free from economic and social injustices."¹⁴⁰ In British India the state "had neither in theory nor in practice, accepted the responsibility for housing" or the provision of conveyance for the personal use of its employees.¹⁴¹ Instead, it *paid in cash* officers at a generous rate and middle ranks at a respectable rate. In Pakistan, "housing and children's education" and "expenditure on transport" were increasingly "beyond the means of a Government Servant."¹⁴² The state was forced to provide tens of thousand of housing units and vehicles for private use and nationalized educational institutions relaxing quality control and reducing fees even as it poured borrowed and printed money into development schemes most of which was wasted and all of which fuelled inflation that further reduced the purchasing power of public sector salaries and reinforced the dependence of state employees on remuneration in kind. By standardizing the pay scale into twenty-two grades the flexibility of the remunerative system was shattered and the marginal increases in everyone's salaries failed to keep pace with the increase in real prices. At the same time the state was providing more incentives in terms of plots, facilities, and concessions that employees took advantage of to make ends meet in many cases and prosper in some. The corruption and wastage this engendered added to toxicity levels within the state apparatus. By 1977, the servants of the state were treated and compensated as they had been in pre-British India. It was only logical that they would also behave in the manner of their medieval and ancient antecedents. No body in a position of real authority seemed to understand that a single corrupt officer could do more damage to the state than many dozens of low level

¹⁴⁰ *Report of the National Pay Commission, 1976* (Islamabad: Printing Corporation of Pakistan, 1976), iii.

¹⁴¹ *Ibid.*, 112, 105.

¹⁴² *Ibid.*, 119.

functionaries or that a properly remunerated, disciplined, and motivated officer corps was the key to keeping administrative subordinates in check.

Perceiving the state as estate, Bhutto's successors unabashedly took to privatizing public assets. Zia presided over the privatization of cantonment lands worth hundreds of billions of rupees as well as the distribution of billions of dollars of international military and economic assistance. Benazir Bhutto and Nawaz Sharif "awarded lands worth US \$ 166.6 million (Rs. 9.7 billion) to friends and cronies."¹⁴³ Bribery and involvement in land development schemes as partners and collaborators became almost routine in the public sector as the distinction between personal and public wealth was blurred even further. Privatization, like nationalization, became a major vehicle of corruption while arbitrariness in decision-making multiplied delays and inefficiency. After 1972, so great was the increase in the levels of corruption that it could "be declared an industry."¹⁴⁴

7.5 Nemesis

Muhammad Khan Junejo, premier from 1985 to 1988, continues to be regarded as an honest and competent leader who could have done some real good if he had not been hamstrung by Zia-ul Haq's interference. Junejo's government did, however, attempt to understand corruption and it found that by 1986, seventy percent of citizens believed that they could not get what was legitimately due to them unless they paid bribes, called in favors, or used a combination of both.¹⁴⁵ Eight percent thought police reform could possibly stem the increase in corruption, five percent put their faith in elected representatives and a mere three percent felt that political parties could fight the

¹⁴³ Siddiqua, *Military Inc.*, 105.

¹⁴⁴ Siddiqui, *Towards Good Governance*, 221.

¹⁴⁵ "Report of the Committee on the Study of Corruption, 1986," 27.

menace.¹⁴⁶ Seventy-five percent believed that state officials and elected representatives placed themselves above the laws of the land and thus could not be expected to take steps to tackle corruption or enforce the rule of law.¹⁴⁷ Forty-six percent thought that tax money collected by the state was stolen or wasted.¹⁴⁸ The apathy that prevailed was revealed by the lack of response to special questionnaires sent to members of the national and provincial assemblies as well as private citizens and government departments. Of the two hundred and forty-one questionnaires sent to the Punjab assembly only one reply was received while from the other provincial assemblies no replies were received.¹⁴⁹ Out of thirty-nine federal ministers and advisers one replied, of eighty-nine senators four replied, and of one hundred and ninety-four National Assembly members five replied.¹⁵⁰ From private citizens and government departments the showing was much better though still low with thirty-eight replies received against one hundred and twenty-eight questionnaires sent.¹⁵¹ The Council of Islamic Ideology (CII) merely reproduced some extracts from an earlier study and remained silent thereafter.¹⁵²

Interviews with leaders of public opinion revealed them superficially knowledgeable of the ways of corruption but most of them "were long on talk and short on clarity."¹⁵³ There was a strong tendency to generalize from personal experience. What was striking was that sixty-four percent of the respondents operated on the assumption that corruption was unavoidable and a fact of life that one had to accommodate.¹⁵⁴

¹⁴⁶ Ibid.

¹⁴⁷ Ibid., 34.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid., 36-8.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Ibid., 39.

¹⁵³ Ibid., 43.

¹⁵⁴ Ibid., 60.

Twenty-four percent thought that corruption was the intelligent thing to engage in while honesty was patently "stupid".¹⁵⁵ Thus, eighty-eight percent of the respondents thought corruption was either unavoidable or intelligent. This pointed "to the mentality of the people at large" and indicated that corruption had become socially acceptable.¹⁵⁶ Intriguingly, people were no longer incensed by what they saw happening around them. In the 1970s the frustration with the growth of corruption was so great that even knowledgeable and experienced people talked "of shooting a few hundred, may be a thousand suspected" of large-scale corruption as an example.¹⁵⁷ It appeared that outrage at those who abused public office for private gain had been transformed into apathy balanced by a desire to join the ranks of the corrupt if the opportunity arose.

In 2000, the Taskforce on the Reform of Tax Administration conducted its own survey of citizens, civil society representatives and government servants. Respondents were asked questions that required them to quantify on a scale of one to five with five indicating extreme concern and one indicating no concern. Overall, seventy-nine percent of respondents were extremely concerned or very concerned about corruption and the impact it was having on the country.¹⁵⁸ Amongst taxpayers, sixty-five percent were extremely concerned and eighteen percent were very concerned about corruption.¹⁵⁹ The respondents felt sadness, frustration, and hopelessness about corruption with about a third opining that corruption was caused by and had contributed to the "collapse of moral values."¹⁶⁰ While twenty-seven percent were worried about corruption due to its

¹⁵⁵ Ibid.

¹⁵⁶ Ibid.

¹⁵⁷ *Report of the Commission on the Eradication of Corruption*, 1979, 19.

¹⁵⁸ *Report of the Taskforce on Reform of Tax Administration*, April 14, 2001, 164.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

perceived link with underdevelopment and twenty-one percent were concerned about it because of its negative impact on Pakistan international image, a mere thirteen percent made the connection between corruption and the breakdown of law and order, while only nineteen percent linked it to the failure in financial administration and the specter of bankruptcy.¹⁶¹

Eighty-one percent of the respondents, and sixty-eight percent of tax officials, regarded the state institutions as corrupt while fifty-nine percent overall felt the private sector to be corrupt.¹⁶² The police was ranked as the most corrupt, followed by the lower courts, the Water and Power Development Authority (WAPDA), income tax, land revenue administration, customs, passports and ID, municipalities, and sales tax.¹⁶³ Corruption was perceived to be particularly rampant in the criminal justice system and financial administration and substantially out of control in the other departments. Eighty-six percent of the respondents thought corruption levels had either increased or remained constant between 1995 and 2000, and seventy-eight percent expected corruption to either continue increasing or stabilize, rampant though it was, at 2000 levels between 2000 and 2005.¹⁶⁴ Eighty-nine percent of respondents were dismissive of "corruption reduction initiatives" and harbored no expectations of improvement.¹⁶⁵

At the CBR headquarters, fifty-nine percent of the respondents thought that corruption was fairly, very, or extremely widespread while in its self-assessment nearly half of CBR employees were considered corrupt.¹⁶⁶ That said the tax offices down the

¹⁶¹ Ibid.

¹⁶² Ibid., 165.

¹⁶³ Ibid.

¹⁶⁴ Ibid., 166.

¹⁶⁵ Ibid.

¹⁶⁶ Ibid., 171.

line were considered far more corrupt than the headquarters owing to greater public dealing. Overall, seventy-eight percent of income tax department employees, seventy-six percent of customs employees, and sixty-eight percent of sales tax staff were considered corrupt.¹⁶⁷ According to tax administrators, for "each hundred rupees of genuine income tax payments" the state collected only forty rupees due to corruption.¹⁶⁸ The remaining sixty rupees were divided between the assessment staff, the tax payer, and the supervising officers. The ratio of collection was fifty-one out of every hundred rupees in customs, and fifty-two out of every hundred rupees in sales tax.¹⁶⁹ Because of corruption, the state collected only *half* the legitimate amount of revenues from the *existing* tax base. Thus, if the tax-to-GDP ratio was in the range of ten-twelve percent the same percentage was not being collected due to corruption. To quantify the ratios, if the total taxes collected amounted to about two hundred and fifty-billion rupees in 1995, the amount collected should have been four hundred and fifty to five hundred billion rupees. By the same token, if we assume that half the tax administration personnel engaged in corruption as did half the tax payers, it would translate into a tenth of Pakistan's GDP being appropriated through corruption by twenty thousand government servants and half a million taxpayers. The real impact of this corruption is greater than the simple addition and subtraction of a tenth of total GDP when one factors in the borrowing at high rates of interests that the state resorts to in order to close the gap between its income and expenditures.

Since 2002, corruption in Pakistan has grown although, as in the Zia period, a robust rate of economic growth fuelled by remittances and transfers from abroad

¹⁶⁷ Ibid., 172.

¹⁶⁸ Ibid.

¹⁶⁹ Ibid., 173.

temporarily eased the resource squeeze of the 1990s. The devolution plan, which remains the Musharraf regime's central reform of the state, has displaced a greater proportion of the corruption to the district levels with the *nazim* and DCOs responsible between the two of them for hundreds of millions of rupees of unchecked expenditure. Coordination has worsened, redundancies have multiplied, and the quality of service delivery in almost every area has declined. At the center a record-breaking seventy-seven member cabinet nominally presides over the distribution of largesse to the lower levels. Scandals ranging from the privatization of everything from the steel mills to the Pakistan-owned Roosevelt Hotel in Manhattan, the 2006 stock market crash which wiped off twelve billion dollars, the economic collapse of the national airline, and numerous other cases have come to light. In the meanwhile, the expenditure on the president's household and staff has risen from seventy-five million rupees in 1999 to three hundred and nine million rupees in 2007 while the prime minister's personal expenses have risen from ninety-eight million rupees in 1999 to three hundred and sixty-seven million in 2007.¹⁷⁰ Expenditure on the National Assembly has risen from two hundred and fifty million rupees in 1999 to one billion rupees in 2007 while the Senate's expense increased from one hundred and eleven million rupees to five hundred and seventy-seven million during the same period.¹⁷¹ Ministers, assistants and advisers that cost the exchequer twenty-four million rupees in 1999 cost it one hundred and fifty-five million in 2007.¹⁷² Senior government servants have repeatedly allotted themselves additional plots of land with the government's blessing at about one-fourth of the market value while expenditure on their perks and privileges mean that secretary rank officers cost as much as four hundred thousand rupees

¹⁷⁰ Kunwar Idris, "So Much of Money, So little Work", *Dawn*, August 18, 2007, 7.

¹⁷¹ *Ibid.*

¹⁷² *Ibid.*

or nearly seven thousand dollars per month to maintain. Their take home salaries are equal to perhaps a tenth of this amount. Lower ranked employees clamor for the privatization of their state-owned quarters.

With the National Accountability Bureau (NAB) little more than an instrument of political harassment and intimidation, routine accountability procedures are severely neglected. The regime does not seem to appreciate the difficulty that any serious attempt to detect, prosecute, and secure convictions under the laws of the land must take into consideration. By one guesstimate, five to ten thousand individuals have made more than ten million rupees through corruption over the past seven years. Even if the state wishes to bring one thousand of these individuals to justice given the complexity of white-collar crime and the rules of evidence and procedure, it would take an investigative team of three or four officers to handle a single case from its inception to a court decision. In effect, that means a trained and highly motivated cadre of about five thousand anti-corruption officers would be needed to deal only with the major instances of corruption. As of 2006, Pakistan is ranked in the same range as Nigeria and Sierra Leone by Transparency International's Corruption Perception Index (CPI). Its score on the corruption scale with ten indicating low levels of corruption and one indicating extremely high levels is 2.2/10 which makes it the twenty-first most corrupt (out of one hundred and sixty-three countries in the survey) country in the world.¹⁷³ Over one hundred and ten countries on the survey scored four or less on the CPI and in 2005 the World Bank estimated the global annual cost of corruption at one and a half trillion US dollars.¹⁷⁴

¹⁷³ Transparency International 2006, Corruption Perception Index. Downloadable from www.transparency.org/publications in .PDF format.

¹⁷⁴ Robert Looney, "Profiles of Corruption in the Middle East", *Journal of South Asian and Middle Eastern Studies*, Vol. XXVIII, No. 4, Summer 2005, 2.

Continental bureaucratic empires are intensely proprietorial entities that blur the distinction between private and public wealth. In Pakistan, the reassertion of the proprietorial attitude transcends the formal divisions within the state apparatus as well as the alternation of democratic, oligarchic, and dictatorial regimes. This reversion has cost Pakistan dearly in material as well as moral terms eroding the effectiveness and legitimacy of the state even as it renders the society increasingly ungovernable. Without reform of the culture of power and sustained improvement in the quality of the bureaucracy it is difficult to see any positive change taking place. The attrition to which the state's credibility is subjected combined with the steady accretion to fatalism and fractiousness of those governed by it, and the inadequacy of reform efforts past and present, have facilitated and been reinforced by the reversion to an arbitrary, delusional, and proprietorial culture of power. The reassertion of the pre-British norms of exercising power have accelerated the decline of the state and evoked "in the people arbitrary and corrupt responses."¹⁷⁵ This behavior is ultimately self-defeating for the "arbitrary culture of power among the ruling elite destroys social solidarity, promotes internal chaos" and "invites external aggression".¹⁷⁶ A ruling elite characterized by intellectual stagnation that presides over a society driven into public apathy and fear of the rational through decades of arbitrariness and corruption of every conceivable kind can do little but await the arrival of its Nemesis.¹⁷⁷

¹⁷⁵ "Report of the Committee on the Study of Corruption, 1986", 94.

¹⁷⁶ *Ibid.*, 95.

¹⁷⁷ *Ibid.*

CONCLUSION

Pakistan's governance and culture of power closely correspond to the highly arbitrary, proprietorial and ideocratic pattern of continental bureaucratic empires in the subcontinent's history. Over a period of sixty years, the Anglo-Muslim elite that governs Pakistan has failed to build upon the positive aspects of the British imperial nomocracy. It has actually done worse through the subversion and destruction, both conscious and unintentional, of the structure, ethos, and discipline of the state apparatus. Unlike more successful bureaucratic states, including examples as diverse as Singapore, Malaysia, France, and Japan, the rulers of Pakistan and their administrative acolytes failed to realize that in such states it was and is the intellectual and moral quality of the servants of the state that determine, above all else, the quality of order and the capacity for progress. At a macro level the rulers and their advisers parroted the latest clichés being churned out by academic industries in the United States and its post-1945 European dependencies. This advice emphasized "democracy" and "development" and stigmatized law and order, taxation, and general administration as "colonial" relics that could now be safely ignored to allow for the innate goodness of man to reign free while the state "reoriented" itself towards development work. The repetition of received wisdoms did not diminish in any way the reality on the ground that in the *actual* exercise of power the rulers became increasingly isolated from the legal, psychological, and cultural inhibitions of the British period. The mental horizon of the ruling elite was fragmented into one part in which the fashionable rhetoric was regurgitated on command in order to secure aid and another major part that led it to behave in a progressively more medieval manner. The latter

severely affected the entire state apparatus and rendered it dysfunctional in both principle and operation.

This dysfunction is a phenomenon that cuts across the rise and fall of governments and the performance of Pakistan's administrative institutions. Its greatest indicator is that even as components of the apparatus and the leadership fail to perform their statutory functions they overreach into other spheres and try to concentrate the powers that lawfully belong to others in their own hands. The original breaches in the functional division of the state were made by elected representatives during Pakistan's early years. They were warned of the consequences by British governors and civil servants to the effect that such arbitrary and unlawful interference in the administrative institutions was for the politicians an exercise in self-immolation. Heedless, the politicians used and abused the apparatus to secure their personal power and wealth and drew the higher bureaucracy and the armed forces into politics while punishing opposition leaders and dissenters through repressive legislation, ordinances, and the repeated imposition of governor's rule. By using the administrative institutions to secure personal and political ends, elevating bureaucrats such as Ghulam Muhammad to cabinet posts, and recklessly pushing forward with the nationalization of the armed forces, which led to the rise of Ayub Khan to the post of army chief in 1951, the politicians opened the door to the ascendance of a governing corporation of mandarins, praetorians, guardians, and *diwans*. Otherwise, there was no way that a clever bureaucrat like Ghulam Muhammad or an ambitious army chief like Ayub Khan could have manipulated their rise.

The governing corporation reinforced the dysfunction of the Pakistani state but reversed its polarity. Instead of politicians using the administration for political purposes

it was now the politicians who were used and abused by the governing corporation. For five years (1953-1958) an effort was made by the seniors officers of the higher bureaucracy and military to maintain a constitutional and democratic façade in a manner reminiscent of the East India Company's indirect rule, or "dual government" over Bengal from 1757 to 1774. In Pakistan, as in early-colonial Bengal, this exercise met with limited initial success followed by mounting contradictions. The initial success was achieved by admitting pliant members of the superior judiciary into the charmed circle and allowing obedient politicians a free hand to exercise patronage in exchange for their support of the supreme executive. These political hydraulics further exacerbated structural dysfunction through the enfeeblement of the provincial and local governments with the former in West Pakistan swept away by One Unit in 1955. The superior judiciary under Muhammad Munir became a servile instrument of the executive while the army chief was brought into the central cabinet immediately after the first Constituent Assembly was rendered non-functional just days before the final debate on the long awaited Constitution Bill. To top it all a state of emergency was proclaimed and the fate of the nascent democracy was sealed.

In their handling of politics and politicians the leaders of the governing corporation proved as arbitrary and inept as the politicians had been when it came to dealing with the administrative institutions. Political insecurity and with it fractiousness, volatility, and corruption increased while, at the same time, opposition to the manipulation of politics by powerful members of the executive grew correspondingly. By 1958, it was evident that the governing corporation would have either to cede real power to elected representatives in order to maintain the credibility of the constitutional system

it had forced into existence after the dissolution of the first Constituent Assembly, or be forced from power after the proposed March 1959 elections, or else assume complete and direct control. Egged on by his army chief and assured of the superior judiciary's support, President Iskander Mirza took the third option, abrogated the constitution, declared martial law, and made Ayub Khan the Chief Martial Law Administrator. Having sacrificed the constitution under which he was president at the altar of unenlightened selfishness, Mirza was soon overthrown by his army chief and on October 28, 1958, slinked off quietly into exile to spend the rest of his life in pointless obscurity.

Over the decade that followed, bureaucratic overstretch took the shape of the higher bureaucracy performing purely political tasks, making policies, and overseeing their execution. The CSP, in particular, acted as a body of political governors and were required to deliver the Basic Democracy vote in favor of Ayub as it constituted the presidential Electoral College. The eventual revival of politics under a new constitution, formulated by the governing corporation that established an imperial presidency with vast powers exercising transcendental control over the political system and state apparatus but without any effective countervailing restraint, reduced the politicians to ciphers and courtiers. The absence of formal statutory safeguards for civil servants, as realized after the initial purges, did not affect the higher bureaucracy but Ayub's reliance on the "yes man" who produced results and got things done, especially on the development side, led to a disruption of the administrative structure which lost its competence relative to the tasks it was being asked to perform. The linchpin of the British-era area administration was the deputy commissioner who acted as collector of land revenue, magistrate, and supervisor of police. Without making adequate administrative provisions, the general

administration was burdened with additional duties on the development side while most of the senior planning posts were occupied by CSP members. Order, taxation, and supervision of the police were deemed *passé* while the area administration was deflected from its original purposes. It seemed as if the ruler and his advisers thought that the core functions of the state would take care of themselves. This reorientation led to the polarization of the higher bureaucracy along CSP/non-CSP lines with the latter becoming envious of the unprecedented power, prestige, and patronage entrusted to the former even in areas where it lacked technical competence. For its part the CSP got carried away and abandoned its role of bureaucratic leadership. It also *prevented* any substantial reform of the administrative system, such as the introduction of a development commissioner with statutory powers to coordinate all the health, education, and public works functions of the state, and practically monopolized all important posts. In doing this the group solidarity of the higher bureaucracy was undermined and immense reservoirs of resentment were created against the domination of the CSP and its successor, the DMG, that continued to be drawn upon even after it lost its preeminent position. The impact on the efficiency, integrity and prestige of the state apparatus of overstretch and internal polarization was singularly adverse.

Between 1969 and 1977 these dysfunctional tendencies were reinforced in two very different but equally pernicious ways. Yahya Khan marginalized the CSP and circumvented the higher bureaucracy by concentrating decision-making and execution powers in the hands of a military-staffed CMLA Secretariat. Cashing in on the popular antipathy towards the higher bureaucracy in general and CSP in particular, hundreds of officers were purged and subjected to humiliating inquiries which were often motivated

by their closeness to Ayub. Yahya believed that the country could be administered like the army, and while he prided himself on his ability to handle politicians and sort things out, it was eventually his regime that was handled and sorted out with disastrous and irretrievable consequences for the unity and territorial integrity of Pakistan.

While Yahya and his military colleagues lost one half of the country, Zulfikar Ali Bhutto put the state apparatus in the half that remained through a series of punishments and humiliations from which it never recovered. All of the propensities towards the politicization of the administration, the destruction of functional autonomy, and the treatment of servants of the state as personal servants, in evidence amongst elected representatives during the first decade of independence, were revisited upon the apparatus with a vengeance. Bhutto consciously set about "breaking the back" of the CSP and his objective was to transform the state apparatus into an instrument of personal rule operationally more powerful than ever before. Moreover, just as Ayub had increased the scope of administrative power without improving its competence, Bhutto did so by nationalizing industries and services and increasing the size of the public sector. This meant that civil servants untrained for the management of productive assets found themselves in charge of cotton processing plants, shipping, banks, and insurance companies. In the meanwhile, their remuneration, discipline, and autonomy, were undercut on a vast scale by "democratization" of the pay scales, inflation, and politicization through arbitrary appointments, dismissals, and transfers. Statutory guarantees were not incorporated into the 1973 Constitution, while the public service commissions were stripped of their autonomy from the executive and reduced to the status of exam administering bodies. While the elected civilian executive proved as

hostile to provincial and local autonomy as its military and bureaucratic predecessors and continued with the centralization of fiscal power and interference in the provincial administration. The autonomy of the superior judiciary was steadily whittled down by amendments and intimidation while Bhutto sought to turn the military into a willing accomplice through the elevation of officers who did as they were told and generous increases in the share of the armed forces in the public wealth. These attempts backfired and after being overthrown by his hand-picked army chief, Zia-ul Haq, Bhutto was condemned to death after being found guilty of conspiracy to murder by a majority of supreme court justices.

Zia's eleven years with its prolonged martial law (1977-1985) saw the autonomy of the provinces, local governments, judiciary, and political parties being significantly reduced. There was, however, a marginal rehabilitation of the higher bureaucracy though this was more than offset by the negative impact of Islamization at home and the holy war bankrolled by the United States and its allies against the Soviet Union in Afghanistan on the social fabric of Pakistan. While prognostications and proposals were made by senior civil servants about the long-term trends and the dire need to undertake sound reform of the state apparatus, the influx of easy money from abroad combined with the banality of Zia's senior political advisers and henchmen, led to a decade that could have been used to rehabilitate the state being squandered. The net result was that as Pakistani society became more ungovernable the state apparatus did not improve commensurately and no serious structural reforms were made, the availability of sound diagnoses and prescriptions from Zia's own establishment secretary notwithstanding. Furthermore, the structural imbalances of over-centralization and inadequate fiscal and administrative

autonomy at the levels where the state apparatus could materially affect lives for the better worsened or remained constant.

Between 1988 and 1999 political instability, often instigated by the establishment itself, combined with sheer ineptitude and lack of vision and understanding on part of the elected representatives, brought the state apparatus to the verge of exhaustion. Once again, dysfunction was aggravated with local, provincial, and federal authorities tripping over each other. The bureaucracy was being used as a political instrument, the military relied upon to perform routine bureaucratic functions, and the superior judiciary eventually stormed into submission. The politicization of the administration brought it to a point where it became simply ineffective in dispensing its assigned functions even as these roles were increased in number. It appeared that the elected representatives had learnt nothing from their earlier experiences and in compounding the malaise, and trying to secure their personal rule at any cost they, like earlier rulers, succeeded in making the former worse while actually hastening their own departure from power.

Since 1999, the decline of the state apparatus has been accelerated by the reforms introduced by the Musharraf's military regime. The devolution of power to elected local governments, combined with the marginalization of the higher bureaucracy and the undermining of provincial autonomy has steadily drawn the military into local politics and administration. These maneuvers have alienated and demoralized the higher bureaucracy even as fiscal centralization translates into the ability of the praetorian center communing directly with elected *nazims* in charge of districts. The manner of their election is often suspicious and the politicization of the administration under their control, inclusive of the police, land revenue, and development, is presently an

uncontested fact of life. As in the Ayub and Zia periods, the availability of easy money from abroad has sapped the political will to engage in serious thinking and undertake substantive reform of the state apparatus.

Faced with the prolonged inability of Pakistani rulers, be they politicians, bureaucrats, or soldiers, to understand the imperatives of structural and operative autonomy, the resultant dysfunction has steadily undermined the ethos, *esprit de corps*, and professional integrity of the state apparatus. In terms of their behavior the personnel and departments of the state have been converted into instruments of arbitrary and personal rule. There are substantial differences in the mental and moral outlook of a civil servant who thinks and acts as a servant of the law and one who defines his own competence in terms of his ability to do what the ruler asks of him regardless of the legality of the order. The negation of rules and procedures by the servants of the state in order to please the boss or secure their personal interests has impacted the state apparatus in several mutually reinforcing ways characterized by arbitrariness, delay, confusion, and personalization.

In terms of arbitrariness the servants of the state have increasingly adopted a behavior pattern that revolves around doing what they please as opposed to what the law, rules, and policies require of them. As long as the select cases that affect the interests of those powerful enough to do them harm or secure them favor are speedily resolved the servants of the state have a more or less free hand. But this affects the apparatus in terms of its day-to-day efficiency and objectivity. For instance, cleaning and routine maintenance are normally ignored until the day before or morning of an important meeting or a visit by a senior officer or dignitary. First Incident Reports are often not

registered by the police unless the supplicant can produce a bribe or demonstrate influence with the senior officers. On the other hand, fraudulent reports and cases are registered at will as and how the rulers and their protégés deem fit or as the police themselves become party to local disputes or engage in harassment. An application for a license to do business, acquire property for an industrial project, set up a school or hospital, or simply acquire a computerized national identity card, will collect dust or be lost unless a member of the bureaucracy or ruling group can be motivated to take a personal interest in the case. Officers and staff come into work late and cynically congratulate themselves in that by leaving on time they are at least being punctual about something.¹ Officers and staff, having come to work late, spend much of their time intriguing, gossiping, socializing and doing personal rather than official work. As work piles up the nuisance value of the officers and their staff increases, forcing applicants to make repeated trips. This breeds hatred of the state, apathy to its interests, demoralization amongst honest citizens and irrepressible opportunism amongst those willing to play, or try to play, a game without rules. The state and society as a whole are the losers as the credibility of the former in the eyes of the latter declines and the body politic is subjected to the administrative equivalent of death by a thousand cuts.

The collective impact of arbitrariness, delay, confusion, and personalization on the state apparatus is felt most tangibly in terms of its growing ineffectiveness. As the officers and staff divert their attention away from the performance of their duties under law it becomes harder for the state machinery to do anything properly, including serving the interests of the ruler in a sustainable manner. Sheer incompetence and apathy

¹ In many departments the subordinate staff have become audacious enough to *tell* the officers come three o'clock in the afternoon that it is time to leave.

translates into sloppiness and indiscretion which bring the rulers as well as the state into disrepute. Moreover, as the state softens many orders given cannot be executed at all while others are delayed or simply lost in transmission somewhere along the line. While this mode of functioning may have worked in pre-modern times thanks to the extraordinary exertions of the sovereign, the state machinery is now too complex and vast to be managed and led through such limited and highly subjective means. The decreasing effectiveness of the state and the loss of discipline, order, and control within the apparatus leads to the infamy of the rulers, diminishes their chances of staying in power, and contributes to their unpopularity. Faced with the irrational parasitism of many of their leaders and colleagues, the fear of what might happen in case "accountability" is arbitrarily meted out by the next ruler leads many *honest* and capable servants of the state to do nothing or spend their time recording objections on the files brought to their notice thereby further reducing the speed of the state machinery, or serving out sentences without any substantive posting as officers on special duty. This further demoralizes the apparatus and depletes its slender reserves of capable and upright officers. In essence, the servants of the state, reduced to the condition of personal servants of the politically powerful, have become miniature reflections of their masters. It means that all too often, the officers with integrity do not get sufficient opportunity to gain experience in important positions while those subservient to the rulers are placed in key positions where they can effectively promote the personal interests of their masters. Thus, on the one hand Pakistan has many honest but inexperienced bureaucrats while on the other it has a greater number of dishonest ones who invest their time not in performing their statutory functions but in pleasing the boss. The moral relationships within the apparatus,

and between the servants of the state, citizens, and the leadership, have, consequently, all but collapsed.

Driven by and accelerating this collapse of trust, respect, and discipline is the proclivity of the rulers and their servants to treat the state as a personal estate. This dimension of Pakistan's culture of power exercises a gravitational hold on the entire governance process. It cuts across institutional, class, and intellectual divisions in Pakistani society and military rulers, elected representatives, and mandarin politicians are equally held in thrall by a proprietorial attitude towards the state. Pakistani politicians try to convert as much of the public wealth into personal assets and consider it their *haq* (right) to at least the recover the costs of their election campaigns from abuse of official powers. The more sophisticated bureaucrats and military officers have refined the privatization of state resources into a science. Self-righteous theocrats have taken to the occupation of state lands and converted them into illegally built mosques, seminaries, and residences. The private sector, often with official collusion, also grabs public lands and wealth even as it evades taxes. As the state grows enervated, even the academia and media have taken to cutting the public purse and wholeheartedly joined the drive for privatization of public wealth albeit on a more limited scale than their compatriots in other sectors.

The result of this insidious proprietorial attitude is evident from corruption, decay of the state of order, and descent of society into moral and legal chaos in stark contrast to the British period and in marked resemblance to the pre-British periods. A portion of this corruption is institutionalized while a substantial percentage at the lower levels affects ordinary people and aggravates loss of order and control within the state apparatus. From

the constable and the *patwari*, to the local council and lower courts, bribes must be paid in order to get the machinery to move at all. Even then, it moves slowly and ineptly and often needs further inducements. With the officers themselves party to this corruption or simply unable to perform the supervisory tasks expected of them, the subordinate staff is a disorganized, turbulent, and anarchic mass of the incompetent, the corrupt, and the malevolent. Instead of improving the training, remuneration, prestige, and supervision of the subordinate staff, little effort was expended even on the officers while discretionary powers, politicization, and declining real pay created an atmosphere conducive to the promotion of two main alternatives for most public servants – corruption or destitution. The response of individuals in society has been to try and take advantage of the phenomenon for their personal benefit even as they complain about the menace of corruption. The dissolution of public morality, the growth in the social acceptability of corruption, and enveloping contempt for the law and the state are some of the other responses to the “disease”. Taken together, Pakistan has become an ungovernable and cynical society and it is generally assumed by people that the rulers and the servants of the state, from the lowly constables to the “Honorable” ministers are stealing as much as they can and treating the state as a personal estate. This perception further reinforces the decline in trust and demoralizes those public servants who are actually honest and competent. It must be borne in mind that amongst the rulers and servants of the state honesty is defined as not taking bribes or engaging in outright oppression. The privatization of public wealth through acquisition of plots of land below the market rate, influencing decisions in favor of their clients or themselves, receiving concessions, transport, lavish gifts, and other privileges open to abuse, are not considered “corruption”

by those who exercise power since it is done under legal cover or has simply ceased to arouse ire.

In the eyes of the rulers the utility of corruption in its legal and illegal forms is that it binds people to their will, at least apparently. The medieval logic is that if the ruler allows his servants and clients to take more than their fair share of the *ruler's* wealth, they can be blackmailed by threat of accountability or influenced through material inducements into doing what the ruler wishes of them. Corruption is also "useful" for carving out of the body of the state apparatus a group of loyalists who, presumably, will do anything to keep the incumbent in power for fear of being punished by his prospective successor. By allowing political and administrative subordinates to run wild the irksome operational autonomy of the state apparatus can be converted into servile instrumentality. The price of such tactical cunning has been strategic disaster for the rulers. In addition to diminishing the effectiveness of the state apparatus and destroying their own reputations, the rulers find themselves surrounded by sycophants who tell them what they want to hear, thereby causing them to lose their grip, never particularly firm in the case of Pakistani leaders, on reality. Corruption also makes for very poor adhesive as Iskander Mirza, Ayub Khan, Zulfikar Ali Bhutto, learnt, and Zia-ul Haq was beginning to learn before his death. A corrupt servant or political client is his master's worst enemy as the temporary immunity he enjoys makes him even more overbearing and incompetent than he otherwise would be. It also leads them to peddle their influence and carve out their own estate and engage in more injustice and oppression than their master would perhaps be willing to sanction. Those who can be bought will sell themselves to a higher bidder and are unlikely to stand by their master if the tide turns against him.

The inability of successive regimes to reform the state apparatus in a meaningful and constructive manner and thus secure their own long-term interests reflects the delusional facet of Pakistan's culture of power and governance. From a very early stage the rulers withdrew into a world of contagious fantasy, inspired and generously patronized by the United States. Instead of rationally comprehending the realities of governance in the subcontinent and working for slow and steady improvement in the quality of the state apparatus along trajectories in evidence before 1947, the rulers took to parroting, mimicking, and occasionally implementing solutions devised by foreign "experts" and consultants. A remarkable testament to the faith-based approach of the United States is that there is hardly any substantial deviation in the principles of the "anti-colonial", "democratic" and "development" oriented advice tendered in the early 1950s and the "bottoms up", "people centered" and "anti-colonial" rhetoric of the late-1990s and early twenty-first century. In the interim, most of the states in the developing world who took the US advice have collapsed into internal chaos and external penetration. That many of the states that took the Soviet advice or adopted some other ideological solution also fared as badly is no consolation though the broad lesson to be derived is that governance requires great reserves of patience, reason, and the capacity to resist irrational tutelage. The heedlessness and unreason of the great powers aggravates the miseries of the weak and over-clever.

While advice and funds from the United States steadily debilitated the cognitive function of the Pakistani state apparatus, the rhetoric of religiosity added to internal divisions and accelerated the movement towards a medievalized society. Dire warnings of the ultimate impact of using religion as an instrument to secure political ends, the full

force of which is now beginning to be felt, were ignored as often as they were given. The modernist Anglo-Muslim elite surrendered its credibility at home through its proximity to the United States even as it undermined domestic stability and its international reputation by appeasement of orthodox elements. In the meantime the quality, effectiveness, and public perception of the state apparatus declined with the caveat that such reforms as were implemented accelerated the descent of state and society into fragmentation and disorder.

Each major constituent of the state apparatus has been affected by and contributed to the general decline in governance. The higher bureaucracy has been reduced in stature and competence to a shadow of its former self and behaves as an auto-phage. The law and order administration has evolved into the most unlawful and disorderly component of the state machinery. This has affected the ability of the state to check corruption and make its writ run in an effective or lawful manner. The financial administration has alternated between periods of complacency when assistance from the United States, and therefore also its satellites and dependencies such as the United Kingdom and Japan, was forthcoming and utter desperation when easy access to external sources of financing dried up. The inability of the financial administration to tax domestic resources and spend such revenues with a tolerable degree of efficiency even by the standards of other countries in the same income range as Pakistan has ramifications for almost all sectors of the state and society. Insufficient tax revenues due to the corruption and incompetence of the financial administration mean greater reliance on borrowing and printing of currency to meet expenditures, a large part of them on development. The lack of financial discipline translates into the wastage of these and other funds. The public perception that the tax

money is liable to be wasted or simply stolen makes citizens reluctant to pay while the poor intellectual and moral qualities of the tax administration personnel encourage evasion and bribery. As for the land revenue administration, which affects the largest number of people, scarcely a thought has been spared for it and it exists by virtue of sheer inertia, its oppressiveness and liability to abuse ignored by the policy "makers". Repeated military interventions have tarnished the military's own reputation, reduced the insulation of the military from politics and administration, and multiplied internal contradictions. Attempts by military rulers to "reform" Pakistan and engineer politics have harmed the state apparatus and produced grave distortions in the political and social environment of the country.

These policy makers, reformers, and public servants have operated under the illusion that the quality of the state apparatus is of little concern and that governance and public service are "humdrum" activities best left to the mediocre. It appears that the Pakistani elite in its understanding of the state and the exercise of power has appropriated and internalized the worst and most irrelevant lessons from the American experience and combined them with the ideocratic and arbitrary culture of power of the subcontinent. A globalization of the discourse on the state has proceeded along with and often reinforced the reversion to pre-British modes of exercising power. Having become more contemporary and fashion conscious in its rhetoric and material trappings, the Pakistani elite has also become more medieval, obsolescent, and "indigenous" in its actual exercise of power and competence with dire ramifications for the state apparatus. Although history does not furnish grounds for optimism there are sufficient indications of insight

and vision in the records of the state itself that indicate that present outcomes were not completely inevitable.

The salvation of a state to be successful must be grounded in a rational diagnosis of the central element of the crisis that afflicts it. At the heart of this crisis in Pakistan lies the exercise of power in an arbitrary, proprietorial, and delusional manner at all levels of the state apparatus and government. This manner of exercise is the product of millennia of ideocratic arbitrary rule and substantially inherent in the structure and ethos of continental bureaucratic empires. Being so firmly rooted in the historical experience of governance, it cannot be easily reversed since over time the social and cultural fabric has been woven around these attitudes. Any reform must therefore accept that it will take several generations to bring about substantive change. Indeed, it took two generations for the British Indian state to reform the culture of power of its five thousand senior-most officers and an additional forty to fifty years for these reforms to take root in the bureaucratic middle order and act as a restraint on the lower ranks. Pakistan's reformers, on the other hand, in their obsession to produce quick results and inspired by absurd notions derived from American tutelage about the innate goodness and malleability of the human race, get easily demoralized when their ill-conceived efforts invariably fail.

Pakistan is a continental bureaucratic empire. The territories that presently comprise it were governed by continental bureaucratic empires long before the British advent. The British, however, reformed the state apparatus inspired and compelled by a combination of their anomalous culture of power and Enlightenment notions of governance. Thus, while bureaucracy was not a colonial invention, the modernized apparatus of the British Empire in India was a synthesis of indigenous administrative

methods and Western ideas and principles. The relationship between the British Indian state and the pre-British states was analogous to the relationship between the absolute monarchy and royal bureaucracy of Old Regime France (1624-1789) and the Napoleonic bureaucracy that still administers France today, five republics, numerous upheavals, and two hundred years later.

The British in India, like Napoleon in his own country, realized that in continental bureaucratic empires the intellectual and moral qualities of the servants of the state were the major determinants of the quality of governance. It was in the ruler's own interest to ensure the highest possible median quality of civil servant, especially in the higher bureaucracy. This meant recruitment on merit, security of tenure, internal discipline, autonomy under the law, excellent pay, the cultivation of a powerful *esprit de corps* and the association of maximum prestige with service to the state. The British left behind institutions and practices that were undermined by successive regimes and their administrative collaborators in Pakistan even as the powers, patronage, and financial disbursements under the control of the state apparatus increased exponentially. In principle, therefore, the rulers and the servants of the state need to realize that as an administrative state Pakistan must ensure that the best and the brightest are inducted into the officer corps of the state apparatus and that the viability of the state depends on this being done. The recruitment, discipline, and transfers of the servants of the state must be entrusted to autonomous bodies constituted by acts of parliament effectively reducing the role of the rulers to the making of policies and overseeing their implementation. Given the self-inflicted disasters that successive rulers have brought upon themselves by interfering in the administration of the state they would do well to restrain themselves

from such activities. An able, autonomous and motivated higher bureaucracy is also the key to gradually and peacefully restoring overall civilian supremacy over the state apparatus, reducing the level of corruption, and improving the quality of order and the effectiveness of the state. It is also the surest way to restore the prestige of the state, act as a bulwark against obscurantism, ensure that the enormous sums spent on development are effectively used, and provide politicians with input that helps them formulate sound policies.

Having outlined the broad principles of reform the actual task must be entrusted to senior members of the state apparatus and political leaders. The demoralization and degradation of the former and irrational compulsions and heedlessness of the latter render it practically impossible for substantive reform to take place. Worse, so little time has been devoted to understanding the state apparatus from within or without that the reforms embarked upon thus far have done more harm than good. With each passing year, however, the state apparatus weakens in terms of effectiveness even as internal challenges to its writ mount. The growing immensity of the challenge reinforces Pakistan's arbitrary, irrational, and proprietorial culture of power. The ultimate challenge that any ruling elite can face is an existential crisis which emanates from its inherent deficiencies of attitude, mentality, experience, and competence. The Pakistani elite, as well as its counterparts in many other developing countries of whom a large proportion are in South Asia, Central Asia, and the Middle East, has singularly failed to demonstrate the ability or the will to rise above its own character. Due to this failure, it has for all practical purposes condemned itself and the society it presides over to a condition in

which the pre-British past and the post-colonial present and future bear ever greater resemblance to each other.

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